MEDICAL WASTE DISPOSAL

HEARING

BEFORE THE

SUBCOMMITTEE ON OCEANOGRAPHY

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

H.R. 3478

A BILL TO AMEND THE MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972 AND THE FEDERAL WATER POLLUTION CONTROL ACT OF 1977 TO BAN THE DUMPING OF MEDICAL WASTE IN OCEAN AND NAVIGABLE WATERS AND TO AMEND THE SOLID WASTE DISPOSAL ACT TO AUTHORIZE THE ENVIRONMENTAL PROTECTION AGENCY TO REGULATE MEDICAL WASTE TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT

AUGUST 8, 1988—SURF CITY, NJ

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CONTENTS

	Page
Text of H.R. 3478	63
Statement of:	
Abel, Robert, president, New Jersey Marine Sciences Consortium	51
Prepared statement	104
Azzolina, Joe, Middletown, New Jersey (prepared statement)	117
Becker, Craig, vice president, government relations, New Jersey Hospital Association	45
Prepared statement	95
Blumenstock, James, director, consumer health services, New Jersey Department of Health	33
DeBonis, Michael F., acting director, division of solid waste management, New Jersey Department of Environmental Protection	28
Prepared statement	88
DeVries, Donald, New Jersey Association of Health Care Facilities	47
Florio, Hon. James J., a U.S. Representative from New Jersey	10
Prepared statement	71
Gallo, Hon. Dean, a U.S. Representative from New Jersey (prepared statement	75
Hughes, Hon. William J., a U.S. Representative from New Jersey	1
Kiss, Karen, president, Alliance for a Living Ocean	48
Lautenberg, Hon. Frank, a U.S. Senator from New Jersey	6
Mafrici, David, associate director, hazardous substances regulation, New York Department of Environmental Conservation	30
Mancini, Hon. James, mayor, Long Beach Township, New Jersey	20
Moran, Hon. Jeff, an assemblyman, Ninth District, New Jersey	17
Muszynski, William, Acting Regional Administrator, Environmental Protection Agency, Region II	24
Prepared statement	77
Quinn, Jack, vice president, Medical & Hazardous Waste Management Corp	50
Prepared statement	98
Roukema, Hon. Marge, a U.S. Representative from New Jersey (prepared statement)	74
Saxton, Hon. H. James, a U.S. Representative from New Jersey	3
Prepared statement	5
Willging, Paul R., Ph.D., executive vice president, American Health Care Association (prepared statement)	122
Additional material supplied:	
Azzolina, Joe: Press release of August 8, 1988	120
Hughes, Hon. Bill: Press release of August 8, 1988	68
Lautenberg, Hon. Frank: Press release of August 8, 1988	70
Communications submitted:	
Subcommittee on Oceanography: Memorandum of August 3, 1988, to Committee on Merchant Marine and Fisheries on medical waste regulations	59

MEDICAL WASTE DISPOSAL

MONDAY, AUGUST 8, 1988

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OCEANOGRAPHY,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Surf City, NJ.

The subcommittee met, pursuant to notice, at 10:12 a.m., in St. Thomas Villanova Church Hall, Surf City, New Jersey, Hon. William J. Hughes presiding.

Present: Representatives Hughes and Saxton.

Staff present: Curt Marshall, Jan Chisolm, Nancy Tyson, Lisa Pittman, and Joan Bondareff.

STATEMENT OF HON. WILLIAM J. HUGHES, A U.S. REPRESENTATIVE FROM NEW JERSEY

Mr. HUGHES. Good morning and welcome to the Subcommittee on Oceanography and our field hearing here today in Surf City.

First, I want to thank St. Thomas Villanova Church for permitting us to use their church hall today, for Len Connors and Len Mancini for setting up our system, our amplifying system and others that have made the hearing possible.

We will be taking testimony this morning on H.R. 3478, legislation introduced by Congressman Jim Saxton and myself in the House of Representatives, to require the United States Environmental Protection Agency to develop a comprehensive strategy to halt the dumping of medical wastes in the ocean.

The Oceanography Subcommittee is one of the subcommittees of the full Merchant Marine and Fisheries Committee which has jurisdiction over this subject along with other committees, including Jim Florio's committee in the House of Representatives.

Over the past two summers, there have been a number of reports of hospital waste washing ashore along the East Coast, including blood vials and hypodermic needles. I personally believe there has been a lot more hype than needles. Personally, I think that the multi-billion dollar tourist economy in New Jersey has suffered tremendously this year in part because the medical waste problem has been, I think, somewhat distorted. Our beaches and ocean waters are, for the most part, as safe and attractive as ever. It is a shame that this message has been lost in the hysteria surrounding the few incidents in which hospital wastes washed up on the shore.

Nevertheless, the fact remains that some medical wastes have washed up, and if there is any that washes up, that is more than should be washing up on our beaches. Whether it is an isolated incident or not, there is absolutely no excuse for it to happen. I

cannot think of anything more revolting than to think of hospital waste washing up on our beaches.

It is clear that the medical industry and government have to do a much better job of developing regulations to track medical wastes and keep these incidents from recurring.

The House Subcommittee on Crime, which I am privileged to chair, held a hearing in Washington just this past week on H.R. 5130, a separate bill which I have introduced to make medical waste dumping a federal criminal offense, along with Jim Saxton and others. Among other things, that bill would allow for fines of up to $250,000 and imprisonment for up to five years in prison for dumping medical wastes in the oceans or other waters.

As part of that hearing, I asked the witnesses that appeared before the subcommittee a number of basic questions. For instance, where are the wastes that washed ashore coming from? What hospitals or medical clinics produced them? What trash companies are picking them up? How are the wastes making their way into the ocean and ultimately on to our beaches?

They could not answer the questions because they do not know. The fact is we do not have an adequate system in place at either the state or federal level to track the handling and disposal of medical wastes. I am all in favor of throwing the medical waste dumpers in jail, as my criminal penalties bill would allow. But we cannot throw them in jail unless we have a mandatory record-keeping system in place which enables us to identify the evidence to convict those who are responsible for the dumping.

And that is just what H.R. 3478 is all about. The bill in question before us today directs the EPA to promulgate regulations for the generation, transportation, treatment, storage and disposal of medical waste. The waste will be tracked from the point of generation to the point of disposal. EPA will work with the states to develop a manifest tracking system that they could follow and enforce. H.R. 3478 also increases the fines under the Clean Water Act and the Ocean Dumping Act.

The need for this record-keeping system is obvious. Experts tell us that some 25 percent of the estimated 150 million pounds of waste produced each year by hospitals is considered infectious. So-called "red bag" waste, containing infectious material, is much more expensive to dispose of than ordinary waste material.

While hospitals might pay city sanitation departments $50 or $60 a ton for disposal of non-red bag waste, private incineration companies charge up to $2,000 a ton for red bag waste disposal. It is no wonder that there is no scarcity of persons willing to dump these wastes anywhere and everywhere, in order to avoid the cost of proper disposal or to reap the profits of improper disposal procedures. Of course, those profits come at the expense of everyone who lives, visits or works at the seashore.

Today we will be hearing from a number of witness, including my colleagues, Senator Frank Lautenberg and Congressman Jim Saxton and Congressman Jim Florio; representatives of the EPA and the New Jersey Department of Environmental Protection, a panel of state legislators, the New Jersey Hospital Association, environmental groups and other interested parties. I am sure that their testimony will assist us in perfecting and ultimately enacting

a comprehensive program to deal with the illegal dumping of medical wastes.

I might say that for many years, I was privileged to represent Southern Ocean County and lost Southern Ocean County in redistricting. And I remember back in the 1970s, as a matter of fact, we had the same beach closings, very similar problems, and a tremendous consensus developed. And we were able to make major inroads with ocean dumping at that time. In fact, Congressman Ed Forsythe, Jim Saxton's predecessor, and I worked on the Merchant Marine and Fisheries Committee and we passed legislation to ban ocean dumping of sewage sludge and industrial waste after December 31st, 1981. We made major progress.

In fact, back in 1976–77, there were over 200 industrial dumpers in the ocean. They are now down to one, Allied Signal.

We had over 50 municipalities that dumped their sewage sludge. We are now down to a handful and we are fighting with New York and other interests in the Congress. And I feel assured that we are going to pass additional legislation this year.

But we knew then that we were developing a major problem with the ocean. I don't have to tell you our tourist economy depends upon clean water, clean air, sandy beaches. That is our stock and trade in the area. And over the years, we have treated the ocean like we could do anything with it with impunity and it would not come back to haunt us.

Well, we have since learned that the ocean like any other resource is to be cherished, is to be protected. And we have not always done that. So, this hearing today deals with another part of the pollution problem that is extremely important. I look forward to the testimony today. I am sure that the hearing record today will enable us to move forward in the Congress and develop a manifest system for hospital wastes, another part of that important segment of trying to clean up or waters.

I now recognize at this time the gentleman from New Jersey, Mr. Saxton, for an opening statement.

STATEMENT OF HON. H. JAMES SAXTON, A U.S. REPRESENTATIVE FROM NEW JERSEY

Mr. SAXTON. Thank you, Mr. Chairman.

I want to express my gratitude on behalf of not only myself, but on behalf of my constituents as well. We are here in my district today with your fine help and cooperation. So, I would like to express my thanks for that as well as to subcommittee chairman, Mike Lowry, from the State of Washington, who is not able to be with us today. It is somewhat unusual to have one of these types of hearings, but we had one with the same Oceanography Subcommittee last year in September in Ocean City and we found that it was so beneficial to us in gaining an understanding of the various problems that affect the ocean, that affect the New Jersey shore, that with Congressman Hughes's cooperation, we are here today to continue to carry that task forward. This time with regard to H.R. 3478.

It was the consensus that I heard voiced at that hearing last September that prompted me to draft the legislation which is the subject of today's hearing.

Shortly thereafter, Congressman Hughes and I introduced the bill, a bill to create a nationwide manifest tracking system for medical waste. The bill has four basic objectives: to continue the ban on dumping of medical waste in the ocean; second, to double existing penalties—through you might also want to refer to a bill that Congressman Hughes introduced last week, and I co-sponsored and we held a hearing on, to make the dumping of medical waste in the ocean a felony on the federal level; third, to direct the Environmental Protection Agency to require the generation, transportation, treatment, storage and disposal of medical waste be subject to a manifest system.

You know, I might add at this point that we and several members of the New Jersey delegation last year at about this time contacted the Environmental Protection Agency and asked that that agency proceed to promulgate such a system independent of federal legislation. We did not feel that federal legislation was necessary.

I might say that we are still waiting. The indications that we have gotten from the EPA have not been encouraging. And, therefore, it means that this bill or one similar to it is absolutely necessary in order to put that type of a system in place.

And, finally, it is the objective of the bill to preserve the right of state and local governments to impose even stricter requirements with regard to tracking and the disposal of medical waste.

Unprecedented movement of this nation's population to its coastal communities has brought with it tremendous economic promise. But it has also brought tremendous environmental challenge. We cannot allow the promises that we have made to the people of our country to be broken. We must find ways to protect our coastal resources. Shorelines all around the nation have suffered from the abuse and carelessness much too often and far too long.

We must accord the complete restoration of confidence in the protections afforded coastal areas the highest priority.

Just as we learned a year ago of the need for a medical waste tracking mechanism, the subject of course, of H.R. 3478, we are here today to learn of your impressions and your ideas on this bill as well as other bills and other ideas which you may have on this subject or any other subject with regard to the issue of the ocean environment.

Certainly, the elimination of medical waste from our beaches is a tremendous challenge for all of us. The problem has two main facets. The problem of a health threat, but perhaps just as important as the problem of a health threat, the problem of the way the American people have perceived the problem. And Mr. Hughes touched on this very effectively, I thought, in his opening statement. The fact that we are here today is as much a result of a perception that the American people have as to what the New Jersey shore is like as to what it is really like.

One of my good friends was here when I arrived this morning. He said, "Jim, this has been one of the finest summers at the New Jersey shore in terms of the quality of the ocean water, in terms of

the condition of our beaches of any summer that I can remember. And, yet, the perception is that it has been one of the worst."

So, we are here today to deal with those twin problems, the problem of a health issue and one of an environmental perception which is not only unhealthy for people but unhealthy for our environment.

So, I again thank Mr. Hughes for helping us to be here this morning. I might add that as I look out across the room this morning, it kind of reminds me, looking at all the familiar faces it kind of reminds me, one of my town meetings. So, thank all of you for being here. We appreciate your interest and, again, we look forward to a very profitable day. Thank you.

[Statement of Mr. Saxton follows:]

STATEMENT OF HON. JAMES SAXTON, A U.S. REPRESENTATIVE FROM NEW JERSEY

I am gratified to be here today with my colleague and good friend, Congressman Bill Hughes. He has worked tirelessly for years to protect our beaches and ocean resources and our partnership on the Merchant Marine and Fisheries has been a fruitful one.

It was in Congressman Hughes' district last year at about this time that we held a similar and very worthwhile field hearing. The concerns I heard voiced at that hearing prompted me to draft the legislation for which today's hearing has been called—H.R. 3478—a bill to create a nationwide manifest tracking system for medical waste.

The bill has four primary purposes:

To ban the dumping of medical waste.

To double existing penalties. However, you may want to note the "Hughes-Saxton felony offense bill."

To direct the Environmental Protection Agency, to regulate the generation, transportation, treatment, storage, and disposal of medical waste.

To preserve the right of States and local governments to impose even stricter requirements.

Unprecedented movement of this Nation's population to its coastal communities has brought with it tremendous economic promise, but it has also brought tremendous environmental challenges. We cannot allow the promise to be broken. We must find ways to protect our coastal resources. Shorelines all around the Nation have suffered from abuse and carelessness for far too long. We must place the complete restoration of confidence in the protections afforded our coasts as our highest goal.

Just as we learned a year ago of the need for a medical waste tracking mechanism, the subject of H.R. 3478, we are here today to learn of your impressions and ideas on the bill as well as any other ideas you may have on this or other ocean environment issues.

Certainly the elimination of medical waste from our beaches is a tremendous challenge. So too are the other sources of pollution that affect our environment and quality of life.

Mr. HUGHES. As I introduce the first witness, I might say that we are fortunate today to have a number of the key players in Congress. We are going to be hearing Jim Florio very shortly. He chairs a very important subcommittee on the Energy and Commerce Committee that has jurisdiction over this bill. Jim Saxton and I both work on the Merchant Marine and Fisheries Committee. We have developed the same kind of a partnership in Merchant Marine that I had with Ed Forsythe many years ago, with Jim's predecessor, and working in a bipartisan fashion to try to develop sound ocean policy initiatives.

Jim and I and Claudine Schneider of Rhode Island, Roy Dyson of Maryland, have been working on an ocean dumping bill for the better part of a year and a half. It is now moving through the Congress. And on the Senate side, handling that legislation is our next guest and witness, United States Senator Frank Lautenberg. Sena-

tor Lautenberg is on the cutting edge of so many issues that are important to us in Southern New Jersey and the state, generally.

He serves on three very important committees. He is on the Committee on the Budget, an extremely important assignment. He also chairs the Transportation Appropriations Subcommittee; which means that Frank Lautenberg has jurisdiction over Coast Guard and all kinds of transportation issues; mass transportation, highway funding, and whole host of other issues as chairman of that important committee. He is also on the Energy and Public Works Committee of the United States Senate and in that capacity has primary responsibility for oversight of the Superfund. He shares that on the Senate side with Jim Florio on the House side. And Frank Lautenberg has introduced similar legislation to, H.R. 3478 in the United States Senate, and is moving it through on the Senate side. It was also Frank Lautenberg on the Senate side that moved legislation out of committee to ban the dumping of sewage sludge after 1991 by New York City and communities in Northern New Jersey.

We are just delighted to have you with us at this field hearing, Frank. We have your statement, which without objection, will be made a part of the record. And you may proceed as you see fit. Welcome.

STATEMENT OF HON. FRANK LAUTENBERG, A U.S. SENATOR FROM NEW JERSEY

Mr. LAUTENBERG. Thank you very much, Chairman Hughes and Congressman Saxton. I am pleased to be with you in this wonderful part of our state, and to be here, also, with Jim Florio. Jim and I work very closely together on many environmental and transportation issues. And I would say that it is fair to comment on the fact that we have with us today, except for Senator Bradley and Congressman Roe, the core constituency for a better environment for not only New Jersey, but for the country as well.

And I want to compliment you for holding this field hearing. Sometimes, in Washington, the din of the roar from some things obscures those things that are really important to people, people who treasure a day at the beach, who treasure a vacation at the seashore, people who look forward, as I did this morning at 7:30, to a dip in the ocean. I stayed with a relative in Beach Haven, and I could not resist the call of the ocean to go in. After I was in about three minutes, I was not sure I did the right thing, because the temperature was a bit low. But it was beautiful and it reminds me of activities that I and my family took 60 years ago when they would bring me down to the shore and we would run for the ocean and run to spend a day at the beach because it was an affordable, delightful experience. And, now, we are running into something else.

Congressman Saxton mentioned it: That this seashore of ours, this coastline of ours is a national treasure that rarely gets the attention that it has lately. We have unfortunately been the center of attention with a cover story in Time, a cover story in Newsweek, national magazines, about the assault on our environment and par-

ticularly the ocean. So, I am pleased to be here with you today to discuss the problem of the illegal disposal of medical wastes.

In some ways, I feel like a prophet on the issue of cleaning up the ocean. And since my first day in the Senate, one of my fondest dreams has been to see the New Jersey shore returned to the beauty and the pristine condition and the glory that it had when I was a boy. And perhaps you people in this room have memories like mine: summer days when we would come to the beach, spread out a blanket, have a picnic lunch and if you dropped your hotdog in the sand, you would wipe it off and eat it. Now, if you drop it in the sand, something else eats it.

Last summer, things went from bad to worse. Not only did we have to contend with sewerage pollution caused in part by an administration that has tried to veto and cut back and diminish funding for clean water projects wherever possible, but for the first time, the summer of 1987 confronted us with the horror of medical waste washing up on the beaches where our children play.

Last summer, the New Jersey shoreline was invaded by a sea of garbage. An invasion that included hypodermic needles, syringes, blood bags, gauze dressings, vials of blood and other medical wastes.

Last summer, a 50-mile area of New Jersey beaches was closed ruining vacation plans, crippling the tourist industry and costing thousands of dollars to clean it up and millions of dollars in lost business. And it is not just those very obvious results. It is the assault on the culture, on a way of life that has been ours in New Jersey almost, I would guess, since the days of the founding of this state.

In response to last summer's discovery of medical waste, I and Senator Bradley, along with 25 other coastal state Senators wrote to the EPA and we urged them to implement a system to track medical wastes so we can be confident that it is being disposed of properly and legally.

It was our contention then, and I still feel the same way, that EPA had the authority, all that they needed so at the time under the Resource Conservation and Recovery Act of 1976. But the agency failed to act. We challenged the agency to act. Unfortunately, EPA did not see it our way. And EPA has resisted so many of our efforts to enforce existing anti-pollution laws that I have taken to calling them, "The Environmental Procrastination Agency."

And while EPA sits and thinks about what to do, medical waste continue to defile our shoreline. A woman took a day at the beach in Beach Haven. She lied down in the sand, just a few weeks ago, was stuck by a needle in the shoulder. She ran home frightened, concerned that she may have exposed herself to some danger. People thinking about a day at the beach ought not to have to think about a day at the doctor the next day. And they ought not to worry about children playing with the needles that they find in the sand. But illegal disposal of garbage and medical waste affects not only New Jersey. Medical waste has washed ashore now in New York, Connecticut, Massachusetts, Rhode Island. Numerous beaches have been closed throughout our area. Thousands of pieces of medical waste together with tons of other debris have washed ashore in our region this year.

When medical wastes are disposed improperly, beaches are closed, vacations are ruined and our tourist economy is injured. Medical waste on the shore is repulsive. And our health is being threatened. While there is virtually no chance of being infected by the AIDS virus because of the virus's poor ability to exist outside the human body, there is danger of infection from these wastes, including infection by Hepatitis B.

Some states have moved to fill in this void, but wastes travel across state boundaries, so, state programs by themselves are inadequate. And without a system to track wastes on a regional basis, we make it easy for illegal dumpers to improperly dispose of their wastes. A tracking system will also deter those who contemplate illegal disposing of medical wastes.

So, I am pleased to tell you, Mr. Chairman, that last Wednesday, the Senate unanimously passed my bill, S–2680, the New Jersey-New York-Connecticut Medical Waste Tracking Act. The bill requires EPA to set up a demonstration program for the tracking of medical waste generated in New Jersey and the other two states within nine months. EPA is authorized to inspect these facilities handling medical wastes. And they are required to monitor beaches from New Jersey through New England for medical waste disposals.

Violations of the regulation will result in severe penalties. States would be allowed to impose a more stringent requirement if they so choose. And EPA would have to report to the Congress within three years on this program.

Congressman Florio introduced a companion bill in the House and I am pleased that Congressman Hughes, the chairman today, and Congressman Saxton are original co-sponsors of this legislation. Belatedly, EPA Administrator Lee Thomas finally caved in and announced support for the bill. And I hope that the House is going to move swiftly in passing this legislation.

I am also pleased to let you know that last week I, Senator Bradley and five other Senators introduced the Senate companion to Congressman Hughes's bill to make a crime out of disposal of medical wastes in the United States' waters or the ocean. This bill serves as a good additional deterrent to the illegal disposal of medical wastes. Our oceans and beaches are precious resources. They provide aesthetic recreational and economic opportunities for the citizens of our state and a wonderful habitat for wildlife resources. EPA has failed to protect them. And we cannot. I compliment you for taking the action that you are today. And I thank you for the opportunity to be here.

[Press release of Senator Lautenberg can be found at end of hearing.]

Mr. HUGHES. Thank you, Senator. You have testified that the Environmental Protection Agency does support the tracking bill at this time?

Mr. LAUTENBERG. The EPA Administrator announced his support of it just at the end of last week.

Mr. HUGHES. And you have moved the tracking bill on the Senate side out of committee, and it has passed the full Senate?

Mr. LAUTENBERG. Passed unanimously.

Mr. HUGHES. On August the 3rd?

Mr. LAUTENBERG. Yes, August the 3rd. We were pleased to have that. And the reason, Mr. Chairman, that we confined it to these three states is while there is interest in the national system, I felt that we could not move it quite as rapidly as we might by limiting it to this tri state area. We want to get this illegal medical waste disposal stopped as quickly as we can.

Mr. HUGHES. But you would agree, that until we have a national system in place, we are not really going to deal with the total problem.

Mr. LAUTENBERG. Absolutely. Absolutely. That is the way to go. I wanted to take the first step, the step that we could take and see immediate action with. And that is what I am interested in doing and I know that you share that view.

Mr. HUGHES. Any hearings contemplated on the legislation which you introduced, the companion bill to the felony bill that my committee heard testimony on last week?

Mr. LAUTENBERG. It is my intention to schedule hearings as quickly as we can, Mr. Chairman.

Mr. HUGHES. Thank you. The gentleman from New Jersey, Mr. Saxton?

Mr. SAXTON. I would just like to follow up on the subject that Mr. Hughes just mentioned. Obviously, we are going to try very hard to pass something in the House. And once we do, we will get into a conference situation. And if we pass a bill in the House, that is, mine or similar to mine or Mr. Hughes's and mine, which provides for a national medical waste tracking system, rather than a regional one, which is the subject of your bill, can you see support for that in a conference?

Mr. LAUTENBERG. I see support for it, Congressman Saxton. It is going to have to pass through the subcommittee headed by Max Baucus, the Senator from Montana, who has the Hazardous Waste Subcommittee. So, that scheduling will have to be done by his committee. And he and I worked very closely together. I am next to him in seniority on the Environment Committee. And we will try to move it along. He is very anxious to do it. But he has that jurisdiction and he agreed to let me go ahead on this demonstration basis so that we can move it quickly.

Mr. SAXTON. Thank you.

Mr. HUGHES. Thank you very much, Senator. You are welcome to join us if you would like on the panel if you have time. If not, we understand. I know that you want to get back to Washington.

Mr. LAUTENBERG. Unfortunately, Washington calls. I would rather continue my day here, Congressman Hughes, but I thank you anyway.

Mr. HUGHES. Thank you for your testimony and we look forward to working with you.

Our next witness is the Honorable James J. Florio, a Member of Congress from the 1st Congressional District of New Jersey. I might say that Mr. Florio and I came to Congress at the same time in 1974. We were both Watergate babies. At that time, it was my privilege to represent Southern Ocean County and parts of Burlington County in the Congress.

Since redistricting, I have moved up much closer to Jim Florio. We now share Gloucester County, for instance, on the western side

of our districts. Jim is now one of the senior members—it does not seem possible, but he is. We both are now senior members of our committees. He is a senior member of the Energy and Commerce Committee. He serves now as chairman of the subcommittee on Commerce, Consumer Protection and Competitiveness. He is a member of the Select Committee on Aging. He is regarded highly throughout the country for his expertise in environmental matters, the author of the Superfund legislation, in fact.

And we are just delighted to have you with us today. Welcome. We have your statement which will be made a part of the record without objection. And you may proceed as you see fit. Welcome.

STATEMENT OF HON. JAMES J. FLORIO, A U.S. REPRESENTATIVE FROM NEW JERSEY

Mr. FLORIO. Thank you very much. I appreciate the opportunity to be here before this very important committee, the opportunity to be here before my two congressional colleagues from New Jersey who have taken a very important leadership role in dealing with environmental problems in general and the particular problem that we are facing here today.

I value the opportunity to come to talk a bit—and I will be brief. I have my statement that I would put into the record in its entirety. And I will try to focus on this problem which I suspect in New Jersey is second only to automobile insurance as the problem that is most on the minds of the people of this state. I will make some suggestions about specific initiatives that have to be undertaken in order to stem the grotesque tide of hypodermic needles and vials of blood and dead laboratory rats and other types of things that we are seeing that are turning a day at the beach potentially into a nightmare for people.

The dumping of medical wastes certainly is a disaster area that has to be focused on. But the problem, as I know both of you know, goes much deeper than that. New Jersey is suffering from a problem that is extensive with regard to ocean pollution: sludge, industrial acids, the refuge of an uncaring, seemingly uncaring-generation threaten to turn our ocean into a large septic tank. Certainly this is something that we are all offended by.

Anyone who grew up in this area—and I suspect through the entire state—has pleasant memories of carefree days at the beach. We did not have to worry about things when we went to the beach. But as I have mentioned to you, Bill, I have a new four month old grandchild, little Matthew Florio, and I wonder if little Matthew Florio is going to have the same opportunity to have the carefree memories that we had in our younger days as he grows up.

I am hopeful that we can be in a position to make sure that he and other young people who come along will have the opportunity to enjoy the benefits of the beach.

I was on a radio call-in show out of Philadelphia not too long ago and a woman called in and said she had had enough. That she and her family were going to take their seashore vacation this year not at our shore, but they were going to North Carolina. And I am here to tell you that unless we deal with these problems, it is not going to be a situation where you can run to somebody else's beach

or run to somebody else's shore. There will be no place to run to. And we ought to be able insure that people can enjoy the beach wherever the beach that they go to happens to be located.

And like that woman who called into the radio station, I think our oceans have also had enough, that if they could speak they would tell us that we have not been as diligent as we should have been in guarding and being the trustees to this important natural resource that we have control over.

The time is past for quick fixes, but it is not too late for us to make some decisions that we should have made a number of years ago. And you, particularly, have been at the forefront over the last 10 or 12 years in trying to point out how it is that we should make these decisions and should have made them a long time ago.

I saw a bumper sticker not too long ago that said, "Nature bats last." I think that ought to be a message for us as well. That we need a commitment to saving our oceans that encompasses the whole host of problems that are currently being focused upon.

I would just like to briefly touch on five points. First, and the major subjects of today's hearings, we have to have a nationwide system for safely getting rid of medical and infectious wastes. A cradle-to-the-grave system for keeping close track of such wastes from the moment that they are created to the time that they are rendered harmless. At every step of this process, someone has to sign their name on a piece of paper that says where the waste went to and to make sure that it was disposed of in an appropriate way. That they know that if they lie, they will go to jail. That they will know that if medical waste does wash ashore we will know where it came from.

I would tell you that I am extremely unhappy that we even have to deal with this legislative proposal. There is no dispute whatsoever that EPA under the Resource Conservation and Recovery Act which was enacted in 1976, has clear unequivocal authority to put into effect what we are passing laws to direct them to do.

The EPA, as a matter of fact, in 1978 initiated a regulatory system to do exactly what we are telling them to do. In 1981, a new regime came into effect and this whole regulatory initiative was scrapped.

Mr. Porter, Win Porter, whom you both know is in charge of this division in EPA, has conceded before my committee that EPA could do this if they were inclined to tomorrow. We do not need more laws. What we need is some will to use the authority that we have right now.

Second, we have to end the dumping of sewage sludge. Eight million tons a year choke the ocean off New Jersey carried out there legally. The ultimate insult to environmental concern. It is carried out there right now. As we sit here, there are undoubtedly barges that are carrying and dumping this sludge out there.

There is legislation before the Congress that will have this end at days certain sometime into the nineties. The fact of the matter is—and you, Bill, particularly—know that this is something that should have been ended in 1981, that the EPA as a result of some litigation and an absence of will to appeal that litigation is continuing to issue permits right now because there are allegedly no economically alternative approaches or options. And we know that

that is silly because Camden, New Jersey, Philadelphia and everybody else in the entire United States has gotten out of the ocean with regard to the disposal of sludge. There is only New York City and a couple of agencies in North Jersey that continue to dump the eight million tons.

Third point: Before the 21st Century is upon us, we have to devote ourselves to building and paying for state-of-the-art sewage treatment systems. Even the best intentioned towns and cities cannot make the ocean safe if they rely upon outmoded treatment plants built under old fashioned technology to handle the simpler needs of smaller populations.

Fourth, we have got to stop the dumping of industrial wastes and acids. I would commend you and you and I have worked very hard to induce the dumpers of these industrial acids to get out of the ocean. We had—and you particularly are deserving of great credit for going one-on-one, as I have done, to some of these dumpers—the most recent one, and they are deserving of commendation, the DuPont Company, has finally agreed not to continue the dumping of toxic acids off the coast of Cape May as they were continuing to do.

Last year, you may recall, 200,000 tons of toxic acids and wastes were dumped with governmental approval off the coast of Jersey. That has got to terminate.

And fifth, and lastly, let us look to the future and do all that we can to develop new methods of treating sludge in other ways to make it non-toxic. The technology is out there. A few months ago, my committee had a hearing in Hoboken, New Jersey, at the New Jersey Institute of Technology, and listened as a parade of scientists and entrepreneurs lamented the federal government's lack of encouragement to induce those types of new technologies to come on line. We are not talking about Buck Rogers's technology for the next century. We are talking about technology that is here and is capable of being used if we want to force us to move into the area of more expensive, admittedly, types of technology than dumping into the ocean. But we are now starting to see what the cost is of just merely dumping in a cheap way into the ocean.

We have got to start research and development projects that will offer a hand and a market for new ideas that work. Some of this, as I have said, is going to cost some money. More money, by the way, than it would have cost if we had not waited so long and if we had done the things that some of us tried to do at the end of the seventies.

But to those who say we cannot afford this, I would say that the cost of doing nothing is in the long run far higher than the cost of doing what is right. A sewage treatment plant might cost more money, but what is the price going to be when we try to rehabilitate and regenerate our ocean from the septic tank dimensions that it is taking on in some of our areas?

Still, as the Woodbridge News Tribune correctly stated in a recent editorial: More important than money is resolve. Are we going to make the decisions because the alternatives are unacceptable?

Resolve, unfortunately, in the last number of years in Washington has been in short supply. This is an environmental question,

but it inescapably is a political question as well. A public policy question as well. We are going to hear a lot about these issues in this election year. As we should. And I will make a bold prediction that no one is going to be in favor of ocean pollution. But having said that, it comes down to what is it that we are going to do in making decisions about cleaning up our environment in general and our ocean in particular. And I am hopeful that people—people who are here and people who are out beyond these halls who are sick and tired of dirty water and unhealthy air will stop and think. Under the prevailing environmental philosophy of the last number of years in Washington, we have had an approach to environmental problems that could at best be described as pathetically passive.

We have seen within the last few weeks the Vice President touch down on New Jersey shores and voice his complaint about the problem. At the same time, this is not a partisan gathering, but if it was a partisan gathering, I would have to make the observation that last year, the President of the United States vetoed the Clean Water Act which, as we all know, is the vehicle that provides for the resources and the authority to clean up the sewage treatment plants that are so much of a problem here at the Jersey shore.

As I said, if this was a partisan gathering, I might be inclined to ask where was George at the time that this veto was undertaken.

Truly, we are coming to the end of what unfortunately I would have to describe as a "lost decade" for environmental protection. We have lost initiative. We have lost time. We have passed some very tough laws. And both of the members here have been part of our effort to pass tough laws. But when we pass the tough laws, we get excuses from those who are charged with enforcing those laws. We have had to grab the federal agencies by the collar and tried to shake them to do what is right.

Well, Mr. Hughes and Mr. Saxton, I would tell you that my opinion is that the American people have run out of patience. They deserve better and they know it. We can do better and we know it. Let us not let this summer of '88 go down as a time when there were more dead laboratory rats on the beach than in some instances there were people.

Let us make sure that the summer of '88 is remembered years from now as the time when we finally woke up and did what we had to do to save our oceans from extinction and save ourselves, quite frankly, from the shame of not taking action.

I want to pledge to you and to all my willingness to work as diligently as I can so that we can make sure that our efforts will result not just in more laws passed. If there is anything I have learned from the last eight years is that you can pass all the laws you want to, appropriate all the money that you want to, but if you do not have the will on the part of the enforcers of the law, then in fact you are not going to solve problems.

I am pleased to be here and I pledge to you my cooperation.

[The prepared statement of Mr. Florio can be found at end of hearing.]

Mr. HUGHES. Thank you very much, Jim, for that fine very comprehensive statement. And I might say to you that when you speak of your grandchild three months old, it reminds me of when I was over on the banks of the Morris River yesterday for a reception for

a member of Parliament. It was a beautiful setting. This young couple came up to me with a child that was about six or seven months old, Christopher was his name. And they had been summering in Cape May County for just a few days just before this week. They indicated that they worried about letting Christopher go into the ocean.

What they did, they compromised. They took Christopher in the ocean, but then they took and washed him off with clear water because of the fear that you have described.

I remember as a youngster growing up, we thought that salt water was good for everything. If you had athlete's foot and you went into the salt water, it was good for you. Now, all of a sudden, we worry about our waters. And while we can try to move initiatives through the Congress as we are now doing to try to put in place new federal legislation, it has become an international problem because we see the same things happening throughout the world.

It is interesting, our colleagues from Maryland were not as vocal about medical wastes until last week when medical waste washed up on the beaches in Baltimore. Now, all of a sudden, of course, there is a tremendous amount of concern in Baltimore. But it is not just a New Jersey problem or a New York problem or a Rhode Island problem or a Maryland problem, it is an international problem. And I just hope that we can, in the next administration, develop an advocate for rational ocean policy that will begin negotiating the kind of international tools that we just implemented with MARPOL where we just became a signatory along with other nations in attempting to ban the disposal of plastics and other debris from ships. But we need to begin working with nations around the world to clean up the oceans because the oceans have become a cesspool in many parts of the world and they affect us all.

The world is getting smaller and certainly that is the case with oceans. So, while I think we can pass legislation to deal with our immediate problems, the ultimate answer, I believe, is international accord that will, in fact, implement rational good common sense practices for the ocean.

I might also indicate to you that while we have had some successes, we have had some setbacks. I remember working with Jim Mancini many years ago and Peter Butterick when I represented Southern Ocean County, and we developed a tremendous consensus as you know in the Congress in 1977. We passed a good law that would ban the harmful disposal of sewage sludge by December 31st of 1981. As I indicated earlier, we made major progress. But unless you have people that implement the laws, and unless they have the will, and the commitment to, in fact. clean up our oceans (if that happens to be the target of our environmental concerns), passing all the laws in the world really will not get us to where we want to go.

So, I appreciate your testimony and look forward to working with you in the Congress and passing a number of measures that will, at least, deal with some of our concerns on the East Coast.

Mr. FLORIO. On your point about the '77 law that you were so instrumental in getting through, I mean I am troubled and I have had the EPA people before my committee on a number of occasions

and, frankly, that hearing that I mentioned in Hoboken, when you put the point to them directly: How is it that you justify issuing these continuing permits to dump sludge in the ocean on the basis that there is no economically feasible alternative to ocean dumping when in fact you are observing and monitoring the disposal of sludge in other areas in composting ways, in ways involving chemical stabilization and neutralization, there are a whole host of other technologies, they are at a loss for words because there is no answer.

Mr. HUGHES. While the Environmental Protection Agency has to accept some of the blame to what happened to the '81 deadline, the fact of the matter is that the Environmental Protection Agency worked out an arrangement, a deal with New York City, entered into a consent decree which gutted our 1977 law. But, frankly, the EPA is limited because states like New Jersey—not just New York—did not develop the land-based alternatives.

We have six major utility authorities in Northern New Jersey that dump about half of the sewage sludge which is dumped in the ocean. Our own department of environmental protection during those years was not attempting to force the land-based alternatives. We really did not have a waste management strategy that enabled us to phase out ocean dumping.

You can set all the deadlines in the world, but you have to do something with the sludge. Unless you develop land-based alternatives, some court is going to relax the ban. And that is precisely what has happened to us.

Hopefully, with the new legislation that Jim Saxton and myself and you and others are moving through the Congress now, we will, in addition to setting an outside ban, put in place a system of fees, penalties, and a compliance agreement that will enable us to develop bench marks so that we force them out of the ocean over a period of time.

Frankly, I have had a lot of my constituents ask me, "Well, why 1992? Why not tomorrow?" Well, the answer is that we do not have any other place to put the sludge. We need that much lead time to develop land-based alternatives. And while everybody wants to clean up the ocean, they do not want to do it in their back yard. Nobody wants the incinerators or secure landfills in their back yard.

We are going to have to bite the bullet and try to develop the most rational, the most common sense, the most environmentally consistent alternatives so we can, in fact, phase out ocean dumping. The ocean became the repository of last resort because we had not done our jobs and provided alternatives.

The gentleman from New Jersey, Mr. Saxton.

Mr. SAXTON. Thank you, Mr. Chairman.

Jim, it is really a pleasure to have heard your statement and to say to you that I think you are right on line with your five points which obviously are priorities to you. And let me just direct a question relative to those five points because I think this is important from an environmental point of view, and from the point of view of the concern about health. Senator Lautenberg mentioned earlier in the day the scenario of the lady who laid on the beach in New Jersey and got herself stuck in the shoulder with a needle. We

have, as I pointed out in my statement, I think a dual problem here. One is the real danger posed and the second is the perception of the danger that is posed.

In terms of your five points and the effect perceptually on the economy, on the real dangers of being at the New Jersey shore, which of those points would you say are the ones that we should concentrate on first? Understanding that none of them can be ignored, which points would be the most important in terms of the perception of what it is really like at the New Jersey shore?

Mr. FLORIO. Well, that is an extremely good question. And the irony, of course, is that the items that cause the most concern, particularly perception-wise, are the items you can see. When we turn on television at night and we see laboratory rats on the shore or hypodermic needles, or last year when we saw some apparently illegal dumping of garbage, floatables floating around, those are the things that probably have the most impact in terms of perception with the consequences that economic development is most adversely impacted.

But I will have to tell you that as lamentable as all of those situations are and as rapidly as we should move to correct them, I happen to think the most difficult problem is going to be the problem that we cannot see as opposed to the problem we can see.

And it is this question of dumping sludges, inappropriately treated sewage, the whole question of toxic acids which in an obscene way continue to be dumped in the ocean with governmental approval. Those are the things that I suspect are the more long term problem that have to be addressed and certainly are going to be the more expensive problem.

We know that if we are going to upgrade sewage treatment plants, you are talking about billions and billions of dollars across the nation because the problem that is common to the entire nation is the fact that sewage is being disposed of into the oceans everywhere. And we are going to have to upgrade our system.

The problem, of course, is that at the time when we are becoming more sensitive to this—the American people are becoming more sensitive—the federal government has been bailing out on any responsibility to be of assistance in dealing with these problems.

I can remember and both of you are very associated with the problems that we are having in the Camden County area where the sewage treatment facilities that are going in are now costing much more because the federal government used to pay 85 percent on the grant. Well, the federal government unilaterally changed the rules and said, "Well, yes, you are going to build this plant, but we are only going to pay you 55 percent."

And now, of course, the President last year tried to veto the bill which would have left us with no money from the federal government. So, what I am suggesting to you is we have to do as you say with all aspects of this. The perception problem I think is more reinforced by the visual aspects of pollution: hypodermic needles and things of that sort. But the long term problem for the well being and the health of the ocean is equally going to be and even more so impacted by the things that we cannot see: sewage sludge, and toxic acids.

[Applause.]

Mr. HUGHES. Thank you very much, Jim. You are welcome to join us here on the panel.

Mr. FLORIO. I appreciate that.

Mr. HUGHES. Our next witness is the Honorable Jeff Moran who is a member of the General Assembly. Is it the 10th District?

Mr. MORAN. 9th District.

Mr. HUGHES. 9th District. Okay, Jeff. Welcome. We are in your district. And we appreciate that. You may proceed as you see fit.

STATEMENT OF HON. JEFF MORAN, ASSEMBLYMAN, 9TH DISTRICT, NEW JERSEY

Mr. MORAN. Good morning, Congressman Hughes and Congressman Saxton. I would first ask the committee to accept my testimony as co-statements by myself and my colleague, Senator Connors who could not be here today because he is in Trenton serving in his capacity as Senator. And he also welcomes you as Mayor of this beautiful community.

Mr. HUGHES. Without objection, that statement will be received for the record as well as the statement of the Honorable Marge Roukema, a Member of Congress from New Jersey and also Representative Dean Gallo, a Member of Congress from the 11th Congressional District of New Jersey.

[Statements of Ms. Roukema and Mr. Gallo can be found at end of hearing.]

Mr. MORAN. Congressman Hughes, Saxton, Florio and members of the committee are welcomed here today as an encouraging signal that there may soon be positive developments toward reducing the incidence of the tides of medical waste which have desecrated the shores of New Jersey, New York, Maryland and, now, New England.

H.R. 3478 is one of the most important federal initiatives for the future of New Jersey shore and our nation's other coastal regions.

As the sponsors of H.R. 3478, Congressmen Saxton, Hughes and the late Congressman Howard have our full support for the spirit and intent of their proposal.

Prohibiting the dumping of medical wastes into our oceans must be a priority environmental concern of Congress for the protection of the public health. To insure a better environmental future for our coastal waters and to save the $12 billion travel and tourism industry of the Jersey Shore.

No single source of medical wastes has yet been determined.

The tide of debris that desecrated our shoreline last year continues. EPA and New Jersey DEP officials say overflowing storm drains and sewer systems of New York City and Northern New Jersey are major contributors to the problem.

These cities must implement corrective action, now. But the scope of the challenge reaches far beyond, because those of us who live at the New Jersey shore understand the major sources of medical wastes in our ocean is from illegal dumping.

Legitimate solid waste handlers charge upwards of $40 for the licensed disposal of a single 55-gallon drum of hospital waste or up to $2,000 per ton. Just one such legal medical waste handler serv-

ing 17 hospitals in New Jersey disposed of about 716,000 pounds of hospital waste in 1986.

There are at least 130 hospitals in the New Jersey Hospital Association, alone. A significant amount of this waste is not disposed of in a proper manner.

Last week, the New York Post ran a series of articles revealing the scope of improper disposal of medical waste by New York City hospitals. There is a litany of incidences and fines uncovered by the Post.

Infectious wastes have forced the closings of dozens of beaches in New Jersey and in New York over the last two years. At least two blood sample vials that washed up this year on beaches in Northern Ocean County contained the AIDS virus and Hepatitis B.

There have been medical waste found along city streets. In Neptune, just this week, a bag including vials of blood, syringes and medical bottles was found in a trash compactor. The proposed medical waste tracking system bills, both before Congress and the state level are important major steps to control medical wastes from the manufacturer to their proper disposal after use.

H.R. 3478 which this subcommittee is hearing today will give federal authorities the tools to keep medical wastes out of our oceans. Those of us who are fortunate enough to live and enjoy the Jersey shore urge the enactment of the hallmark legislation you are hearing today.

Again, Mr. Chairman, and members of the committee, we are most appreciative of the hearing you are conducting today. The citizens of South Jersey thank you for your time and concern about our future and about the future of our coastal waters.

In closing, I just want to state two points. Number one, I apologize for not being able to stay because I will be returning to the State House today for a very important bill that you two gentlemen were very, very instrumental in seeing passed by the lower house is before the Senate today. And that is, ladies and gentlemen, 1155, an $8 million loan to Manchester Township for polluted waters. And Congressman Hughes and Congressman Saxton were very, very instrumental in helping that particular package of bills by Senator Connors, Jack Hendricks and myself pass.

The second point that I want to make is a comment that Congressman Florio had made about sludge dumping. Senator Connors and I take a great deal of pride being the sponsors of that particular bill in the lower House and in the upper House with the two gentlemen in front of me now, Congressmen Hughes and Saxton had that bill packaged identically the same as ours on the federal level. We commend you for that.

And, also, I would like to say that the sludge dumping that takes place off the Jersey shore is done by, as the Congressman so stated, six communities, Ocean County which has never been one of, and as a matter of fact, Ocean County is the pilot project for all of the Eastern Shore if not all of the United States for the Carver Greenfield system of turning sludge into fertilizer. And that was possible because of a $25 million grant that was afforded to the Ocean County Utility Authority with the help of you two gentlemen.

So, on behalf of all of us in Ocean County, we welcome you here. Please keep on doing the great job that you are doing on behalf of all of us in Ocean County. Thank you, again.

Mr. HUGHES. Thank you very much, Jeff. We appreciate your leadership in the General Assembly. I want to congratulate you on your work, not just on ocean issues, but a whole host of other issues that impact Southern New Jersey. I know you made a special effort to be here because the General Assembly is in session today. And, so, we appreciate your appearing and testifying on behalf of yourself and your colleagues. Thank you. I have no questions.

The gentleman from New Jersey?

Mr. SAXTON. Just let me thank you, also, for being here. I know that you have been on the cutting edge of this issue for a long, long time both as an official in the public schools and as a concerned citizen and now as a representative of the 9th District in the General Assembly. And because you have been directly involved in this on a daily basis, let me ask you a question and let me preface it by saying this: We have had many problems in this country that we have had to deal with in many different ways. What you do and what Congressman Hughes and I do is to try to develop policy and put those policies into laws which are then carried out by various divisions in the state and federal government.

And, as we look at what we are trying to do today, in terms of putting a law in place to help control medical waste and then as we talked about what we propose to do with regard to sludge and then as we talked about what we propose to do in terms of sewer plants, once we get in place effective policy to deal with these issues, then we become concerned about the general policy of enforcement.

Now, the same thing has happened with regard to drugs. We have laws in this country that say it is illegal to sell drugs, it is illegal to use drugs, there are penalties imposed for using them, and then we got concerned because the laws were not working and we put in place a mechanism to enforce those laws. It is known as the Drug Enforcement Agency.

Similarly, we have laws that deal with alcohol, tobacco and firearms because they are either unhealthy or dangerous and, so, we put in laws and we debate them in Congress and we debate in the state house and then we get what we figure are policy issues in place and then we have to enforce them. And to do that on the federal level, we developed the Division of Alcohol, Tobacco and Firearms to act as an enforcement agency in those areas.

And, you know, on a personal level, I have a member of my family who is involved in an enforcement agency similar to that. Not long ago, the country became very much concerned—in fact, alarmed. Alarmed about terrorism and hostages taken either in airplanes or in some other setting and within the FBI, in order to enforce the laws that we put on the books collectively, we set up a division within the FBI called the Hostage Rescue Team. My brother-in-law happens to be a member of it. And, so, I am very familiar with how it works and how effective it has been.

And Bobby Kennedy years ago said one of the scourges to our country has to do with organized crime and set up effect law en-

forcement investigatory divisions to deal with organized crime. And I would suggest—and I am interested in your reaction to this—I would suggest that what we face at the New Jersey shore with regard to sludge, with regard to medical waste, with regard to combined sewer overflows, with regard to other illegal substances that are deposited in the ocean, cry out for the same type of enforcement as those things do which I mentioned. And I do not know whether we need a Federal Bureau of Investigation on the Environment or whether we need a Federal Division to investigate and enforce environmental laws that we have on the books, but I believe that from an enforcement point of view, we need something like that. And I am interested in what your response to that would be.

Mr. MORAN. I think your point is well taken. And we have tried to do that in New Jersey. Over the last six months, we have incorporated an additional $4 million in our budget for law enforcement of our waterways. We have hired an additional 100 state marine police to police our shores. We have 127 miles of coastline in New Jersey that must be patrolled. It is a very, very expensive, but as the Senator said and the Congressman prior to me said, that there should not be a price tag to what the environment will be.

I think we are taking that position on a state level, but we are not taking it serious enough. We need the support. We need the help of bills such as yours to make things possible so that the Jersey shore can be that of the people's again. Thank you, again.

Mr. HUGHES. Thank you, Jeff. We appreciate your testimony and good luck to you.

Our next witness is the Honorable James Mancini who is the Mayor of Long Beach Township, a long time Mayor of Long Beach Township, an old friend, an old colleague and a co-partner when I represented this part of Southern New Jersey. Welcome, Jim.

STATEMENT OF HON. JAMES MANCINI, MAYOR, LONG BEACH TOWNSHIP, NEW JERSEY

Mr. MANCINI. Thank you, Mr. Chairman.

As the Mayor of the largest beach community in the State of New Jersey, we have 12 miles of beach in Long Beach Township. And also representing all the municipalities on Long Beach Island, 18 miles of beach, I want to thank you, Mr. Chairman, and you, Congressman Saxton, for bringing this hearing here right to the waters' edge where it really should be.

I also would like to say that I feel that Ocean County, and I speak for Ocean County, also, has been fortunate to have Congressman Hughes and, now, Congressman Saxton represent us.

Back in 1976 when our shores were littered with dead fish, coughing and gasping and dying on our beaches in 1976, our town took the initiative and sued New York City and, yesterday, Federal EPA. And Congressman Hughes who represented us at the time very quickly jumped in and passed the 1977 legislation.

We all know the problems that occurred subsequent to that. The huge New York area stopped dumping sludge by 1981. When that time came, they built the World Trade Center with two huge buildings and dumped more into the river. They put themselves above

the authority of not only state government, but the federal government.

This is very, very, very frustrating.

Long Beach Island was subject to a moratorium on building instituted in 1972. There was no building for five years because we at the time had only primary treatment for sewage. And because of that Long Beach Island had a moratorium levied against it.

Subsequent to that, New York City and the large municipalities continued to dump raw sewage into our waters. No effect. Too big.

I am very happy to see H.R. 3478.

Mr. HUGHES. 3478.

Mr. MANCINI. 3478, okay. We need, we need federal authorities to step into this. The medical waste, sludge and all the other pollution that we experience does not recognize the tides and the drifts of state boundaries. Water does not recognize that. This is a federal problem. It is a state problem. And it is a local problem. But it is all encompassing. And it makes me very happy to see legislation such as this and the other legislation that has been discussed here this morning being put into place.

You obviously have our full support, our full thanks. I think at this time you will find during the day that the concern of our peoples is very, very severe. We are tired—tired of having waste wash up on our particular shores that are not from our particular area. We are tired after Ocean County eight years ago opened up a regional sewer treatment facility for the entire county. A state-of-the-art sewer treatment facility, a county that has never dumped sludge into the ocean since that time. We are tired of being subject to the violations of other areas, other counties in our very state and more important, the large cities of adjacent states. We are tired of all this.

Our particular area, here, is not one that has experienced closed beaches. Yes, I have to mention perception. Perception is very important. Ocean County has not had any ocean beach closed. Our water is, yes, of a better quality today than 10 years ago, 1976, when we had that infamous occasion, that infamous incident; but our ocean is being threatened from elsewhere. Ocean dumping must stop.

Alternatives: Las Vegas is in the middle of a desert. They do not have an ocean. They survive. Obviously, there are alternatives. All ocean dumping must stop and I know that you gentlemen will be the spearhead, the force to bring this about. Your start here is one that we appreciate. Your past help and work for us is one that we shall constantly remember, constantly support, and constantly thank you for your efforts.

Again, I would like to just say that we are tired of what we are experiencing. We want it stopped. We want it stopped in all categories. We have clean beaches here and clean water, but we are worried that it may not remain that way due to the violations of others.

This is a national problem. The ocean must be saved.

Gentlemen, again, thank you. Keep it up. You have our support. And thank you for coming to Long Beach Island.

[Applause.]

Mr. HUGHES. Thank you.

Mr. Saxton?

Mr. SAXTON. Before the Mayor leaves, I would just like to ask one question if I may. And let me preface it with this: I suspect and I would like to be more optimistic, but I suspect that we are going to put a law in place and I suspect that we are going to put some kind of enforcement mechanism in place relative to medical waste, but with the great number of miles of seashore both in New Jersey and up the Hudson River and around New York and up Long Island, my best guess is that there are going to be things that illegally end up in the ocean that are not supposed to be there. That is what is happening now in spite of the fact that we are putting in place laws to try to prevent that from happening by making the laws tougher. My colleague has a bill that will put people in jail for five years for throwing a syringe in the ocean if they are caught and convicted. That is a pretty tough law.

In spite of that, I suspect that there are still going to be incidents that we have along the shore with debris on the beaches that had not ought to be there.

Now, not long ago, the Mayor and I were talking and I think you bought some special equipment, if I am not mistaken, to help keep the beaches cleaner. Is that not correct? And could you speak to that?

Mr. MANCINI. Yes. I feel this is a project that goes to all levels. At the local level for the first time, and I am in my 29th year, as I stated, for the first time we have mechanical cleaning equipment on our beach. Mechanical rakes that rake that beach virtually everyday. Our beach is definitely much cleaner than it ever was. It looks so pretty some mornings that we feel like prohibiting footprints upon the sands. It looks like wall-to-wall carpet. But with this cooperation that the towns must provide, the towns must provide this type of cleaning. We must be cognizant. We are the front line. We must keep this up. It is a joint effort by all.

But what you are proposing, what you are doing is the only way that we can survive because we take care of our own. Our area is a good area. Talking about children, I think Congressman Florio mentioned his new grandchild. I have had nine of my children grow up here. They all swam in the ocean. And the entire nine are all very healthy today. Thank, God. Our ocean is beneficial and it is something we really want to keep. Again, thank you.

Mr. SAXTON. How many miles of ocean front of beach did you say that Long Beach Township has?

Mr. MANCINI. Long Beach Township has the largest protected beach in not only New Jersey, but probably on the East Coast.

Mr. SAXTON. How many——

Mr. MANCINI. Twelve miles of protected beach in one town.

Mr. SAXTON. How many mechanical sweepers did you have to acquire in order to do what you consider to be an adequate job?

Mr. MANCINI. We have nine mechanical sweepers. And we have the capability of raking the beach on a daily basis. Now, if we had the incident occur that occurred last August on the 14th when we had all that waste wash up, the equipment we now have today would have cleared the evidence of that in two or three hours on the entire 12 miles because it only covered a five or six foot swab where the tide line emerges.

Now, the item that Congressman Florio mentioned: the pollution we do not see, we are concerned about this. We feel this comes from sludge. And the sludge must be addressed. Dumping it at 106 miles has been a great benefit, great benefit. As it has been phased out, our water quality has improved. But that is not the solution. We must stop dumping it totally.

[Applause.]

Mr. HUGHES. Jim, the one thing that has not been mentioned and I couldn't agree with you more, is that the 106 mile site is an interim site. It is an interim site because we have not developed land-based alternatives and we didn't realize at the time, of course, that there would be some effort to make it a permanent site. It was never intended to make the 106 mile site a permanent site. We just wanted to phase out the 12-mile site because we had developed the most distressed body of water, probably in the world, in the New York Bight. There is no body of water that I am aware of that is dirtier and has been more distressed than the Bight.

We have not mentioned until now the fishing industry. We have mentioned tourism. I see Lou Puscus over here. And we have a major fishery, not just here in Ocean County out at Barnegat, but also in parts of my district: Atlantic City, Cape May which I am privileged to represent.

We are now finding shellfish on the continental shelf that are diseased with the same type of shell disease that seems to be prevalent around sewage dump sites. I do not think it is coincidental. We just started dumping all the sewage sludge as of January 1 at the 106-mile site. I do not think it is coincidental. Scientists cannot tell us, at this point, if there is any direct relationship between the disease we now see, the spots that some of our fishermen claim they now see on tile fish and other fish. But I am persuaded we are going to destroy our fishing industry, too, if we do not do something about the sewage sludge dumping. So, I could not agree with you more.

Just one additional point. I walked along the beach in my home city, Ocean City, about five months ago. And in about a two block area I must have counted 100 to 150 beer cans, soda cans. They came from us. You and I. You cannot legislate good citizenship. So, that is another part of the problem that we have to begin to deal seriously with. We need to develop a waste management program that is comprehensive and multimedia in nature, to deal with the myriad of problems. And littering is a major problem.

Many of the hypodermic needles that are washing up on the beaches, I am satisfied, come from drug abusers in large cities that throw them down storm drains or into the gutters. The gutters are not cleaned. They end up in our streams and waterways. That is part of our problem.

Combined sewer overflow is another problem where our waste water treatment plants, particularly, during heavy rains wash into our storm drains and right out into our waterways. So, there are a lot of problems. And we need to work together at the federal, state and local levels to try to work with the problems.

So, we appreciate your testimony. I saw Lou Puscus and I wanted to make note of the fact that the fishing industry is also important. It is not just tourism. The fishing industry is at risk, also.

Thank you.

Mr. MANCINI. Thank you.

Mr. HUGHES. Our next panel consists of William Muszynski, the Acting Regional Administrator for the Environmental Protection Agency, Region II; I believe we also have with us from the Department of Environmental Protection Michael F. DeBonis who is the Acting Director for the Division of Solid Waste Management of the New Jersey Department of Environmental Protection, and Mr. David Mafrici, is he with us today?

[No response.]

Mr. David Mafrici, yes, with the Hazardous Substances Regulation Bureau, New York Department of Environmental Conversation, and Mr. James Blumenstock, who is the Director of Consumer Health Services of the New Jersey Department of Health.

Mr. Muszynski, Mr. Mafrici, Mr. DeBonis and Mr. Blumenstock, welcome. We have your statements which without objection will be made a part of the record. You may proceed as you see fit. Why do we not begin with you, Mr. Muszynski. Good to see you, again.

STATEMENT OF WILLIAM MUSZYNSKI, ACTING REGIONAL ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, REGION II

Mr. MUSZYNSKI. Same here, Mr. Chairman.

Good morning. I am Bill Muszynski, the Acting Regional Administrator of the U.S. Environmental Protection Agency, Region II. Our region includes the States of New York, New Jersey, Puerto Rico and the Virgin Islands. And I am pleased to be here today. And I thank the subcommittee for the opportunity to discuss our region's perspective on the problem of medical waste.

The focus of this session is how to protect the ocean from medical wastes and I am going to talk about the various actions that EPA and the states are taking towards that end.

There is considerable regulatory and legislative activity right now around the ocean as well as medical waste issues in our region. I will concentrate on some of the more pressing concerns.

As you know, this summer has seen a proliferation of wash-ups of garbage including medical-type wastes on beaches in New York and New Jersey as early in June and July of this year with medical wastes and other debris appeared on Long Island beaches. The waste included a few syringes, many crack vials, firecracker debris and other garbage. The result was a series of beach closings. Since then, the closings have occurred and the wash-ups have occurred on other Long Island beaches, on New York City beaches, particularly Staten Island, and some of the New Jersey beaches. The wash-ups are still continuing, not only on the Region II beaches, but, now in Region 1 as well.

The EPA Region II has been investigating the wash-ups of medical-type wastes and other garbage since similar events occurred last summer. Our annual helicopter ocean monitoring patrol is focusing on garbage and medical waste wash-ups, augmented by our recently relaunched boat, The Clean Waters, which is jointly funded by EPA and the States of New York and New Jersey and is

used to spot and trace garbage spills and floating garbage slicks in the New York/New Jersey Harbor.

We have worked closely with federal, state and local regulatory and enforcement agencies to coordinate the investigatory effort. In addition, because of similar wash-ups that occurred last summer from November '87 through January of this year, we conducted extensive helicopter surveillance and on-site investigations to determine the sources.

We found that the likely sources include improper landfill operation, litter from pleasure and commercial boating, combined sewer overflow, storm water and run-off, beach litter, rotting piers and old wooden boats in the harbor and resuspension by high tides of floatable materials previously deposited along shorelines.

While isolating the sources of medical-type waste, itself, has proven more difficult, we believe that the waste can be traced primarily to some hospitals, clinics, private practitioners, home IV users and drug addicts. And while some instances of illegal disposal have probably contributed to the problem, to date, no investigation by EPA or federal and state agencies have identified a major illegal dumping episode.

Since the focus of this hearing is on medical waste, I will use the remainder of this presentation to discuss the latest developments and possible solutions to this problem. We believe the medical waste problem can best be addressed from a land-base perspective.

Our first step should be to define properly the extent and scope of the problem and to determine what is the appropriate management system to handle these wastes in a manner that protects human health and the environment.

Any such management system would need to be supported by a strong compliance and enforcement system. Medical wastes include a variety of materials such as packaging, which includes wrappers and bandages and catheters, containers—IV bags and empty vials—and other disposable items, tongue depressors, thermometer covers, et cetera, and infectious wastes which includes blood, tissues, sharps, cultures and stocks of infectious agents.

While hospitals, clinics and health care facilities may generate the vast majority of these wastes, medical wastes including those that are infectious are also generated by physicians and other health care professionals in private practice, home health care, in veterinary clinics and blood banks. Thus, this problem and concern for the proper treatment and disposal of infectious waste cannot be easily resolved since there are numerous generators, many of which only produce small quantities.

The appearance of infectious wastes and other medical waste paraphernalia on our beaches this summer is outrageous. It has robbed our citizens of their right to enjoy the ocean without fear. And it has robbed those who depend on a variety of revenues for their livelihood.

However frightening as the wastes are, exposure to infectious waste that could result in disease transmission is more likely to occur in those occupational settings that generate, transport, store, treat or dispose of these wastes than in beach debris. Nevertheless, the fear that the discovery of medical wastes instills in the public a

sufficient cause to make sure that strong regulatory controls are in place governing the handling and disposal of these materials.

In addition, we need a highly visible and aggressive effort to educate those who generate, transport and dispose of infectious waste to conform to the modes of practice and behavior that would result in a reduction of any potential risk that might derive from the improper handling and disposal of these wastes.

In New Jersey, there are approximately 130 hospitals, 200 diagnostic and treatment centers, 525 clinical labs, 800 health care facilities which generate medical waste.

In New York State, there are 280 hospitals, 325 diagnostic and treatment centers, 500 clinical labs, 845 health care facilities that also generate medical waste. From these facilities, some 300,000 pounds per week of infectious materials are being handled in New Jersey and some 700,000 pounds per week are being handled in the New York City metropolitan area, alone. The vast majority of these wastes are being disposed out of state.

Both states already have started to put in place strong regulatory programs. However, these regulatory programs will not do as effective a job in dealing with the disposal amounts of paraphernalia that are produced by the 40,000 physicians and other practitioners who operate in New Jersey or the 60,000 physicians and other practitioners who operate in New York or the thousands of health care industries, such as blood banks and funeral homes which operate in both states and are not covered by the regulatory umbrella.

Finally, these regulatory programs do not address the vast quantities of needles and syringes that are used in self-administered situations whether in legitimate home care as in the case of insulin users or by drug addicts.

The amount of waste generated in these settings is hundreds of times greater than the waste discovered to date. This situation is indeed alarming in its scope and complexities and cries out for very careful analysis and planning by government agencies in obtaining the proper remedy.

As noted previously, I believe the current washups of municipal wastes including medical wastes are due to a variety of sources: combined sewer overflows, storm water run-off, beach liter, drug addicts and home users of syringes and the general inadequate handling of solid wastes are all probable causes. We must also consider the instances of illegal dumping to be an important factor.

To focus specifically on medical wastes, within the last two months, the region has conducted a series of meetings with environmental and health departments from New York and New Jersey and the City of New York. Both the states and the city are close to adopting emergency rulemaking under their Emergency Powers Acts to create a medical waste manifest tracking system that will monitor infectious waste from the point of generation to its final destination. Both states' regulations will pertain to any facility or individual operating at a minimum of 100 kilograms or 220 pounds per calendar month and require the use of a four-page manifest tracking system.

This system requires the generator, transporter and disposal facility operator to complete specific portions of the manifest which will insure that the materials produced by our hospitals and large

health care facilities and laboratories are handled safely and disposed of properly, minimizing any detrimental effect on human health and environment. In both states, the generators will be responsible for receiving confirmation from the disposal facility that the waste was received and properly treated and disposed of.

A very important next step is to decide how best to expand the regulatory coverage to insure that infectious wastes produced in small laboratories and clinics and in the home setting are properly disposed of. This is indeed a critical step as the evidence gathered so far indicates that it is the small quantity generators that are also likely causes of beach contamination problems that we have experienced to date.

Infectious waste generated in New York State is currently regulated under the Environmental Conservation Law by the New York State Department of Environmental Conservation and under the Public Health Law by the New York State Department of Health. These laws took effect April 1, 1988. The emergency rule there will effectively incorporate two additional requirements: (1) the four-page manifest tracking system; and (2) a labeling requirement for the identification of generator names and addresses imprinted or affixed to the infectious waste red bags.

In addition to its emergency rule, the State of New Jersey has introduced a permanent rule which is identical to its emergency rule. In addition, comprehensive rules will be introduced within 60 days. The comprehensive rules will include stringent guidelines for safe and effective treatment, packaging and handling of medical wastes, including the identification of bags and packaging of containers at the point of generation.

We are also assisting the states in their efforts to implement these emergency regulations and for establishing a common definition of the universe which will help considerably in clarifying just what operations are subject to the rules.

As mentioned previously by Senator Lautenberg, with respect to his bill which would require EPA to promulgate regulations to establish a tracking system for medical waste generated in New York and New Jersey and Connecticut within nine months, we are supportive of that. We support the implementation of a regional tracking system under the respective emergency authorities as an intelligent first step to focus attention on this issue.

To achieve this end, Region II has been facilitating meetings between New York and New Jersey so that a consistent and effective tracking system will soon be in place. We intend to continue working with these states to determine the effectiveness of this effort.

In summary, we believe it is important to evaluate existing state and local regulations with respect to medical waste handling and disposal and to consider what improvements are needed in federal regulations or legislation in light of the evaluation. Our experience in Region II under the proposed regional tracking system will be invaluable in this regard. We can all agree that good management and regulation of medical waste handling and disposal is essential. It will continue to be of the highest priority to us in Region II.

And what we must recognize that even the best tracking and manifest system for these wastes will be only a partial answer to the outrageous occurrences on our beaches.

As I pointed out in the beginning of my remarks, medical waste is only one component of a much larger floatables problem in general. Garbage washups have occurred for years and will continue to occur even if we eliminate the medical waste issue. The source include combined sewer overflow, storm water runoff, beach litter, litter from pleasure boats and other shipping, and the general inadequate handling of solid waste, landfills, and marine transfer operations. These problems illustrate how despite the major effort our society has made to clean up the oceans, billions for sewage treatment plants construction and significantly better control of industrial discharges and tighter regulation of ocean dumping, it is still not enough in the face of the explosive growth and development that are taking place along our coastlines.

The solid waste and floatables problems are aggravated by the dramatic increase in the use of disposables by all consumers, including in particular the medical profession and the near crisis in the availability and cost of solid and infectious waste disposal options.

In this regard, we have underway two important programs: the New York Bight Restoration Program and the Hudson River Estuary Study that will help define a whole wide range of forces that are stressing our part on the ocean. I am hopeful these efforts will point to a series of solutions that will safeguard this vital resource over the long term.

Carrying out these solutions will require a concentrated effort and commitment by all levels of government and by individual citizens who must become more aware of their own solid waste generation and disposal practices. We must insure that all wastes are properly managed to protect human health and the environment.

Thank you for your attention and I will be glad to answer any questions.

[Statement of Mr. Muszynski can be found at end of hearing.]

Mr. HUGHES. Thank you, Mr. Muszynski.

Mr. DeBonis, welcome.

STATEMENT OF MICHAEL F. DeBONIS, ACTING DIRECTOR FOR THE DIVISION OF SOLID WASTE MANAGEMENT, NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Mr. DEBONIS. Good morning, Mr. Chairman and members of the subcommittee. My name is Michael DeBonis. I am the Director of the Division of Solid Waste in the New Jersey DEP. And I will not read you my full statement, but I would like to read parts of it for the record here.

I would like to share DEP's perspectives and overall reaction to the medical waste crisis which has affected not only New Jersey, but the entire East Coast Metropolitan Area. Our shoreline/resort areas are today facing serious economic and environmental problems as the result of the illegal disposal of medical waste which has found its way to the beaches of these coastal communities.

The appearance of needles, blood vials and more recently research laboratory animals in these areas have greatly impacted the environment and quality of life, as well as the overall economy and growth of the State.

In response to a heightened concern on the part of the public with regard to medical waste disposal, the Department with the assistance of the State Health Department is working on a tracking system to monitor the path of special medical waste from its point of generation to its point of disposal. The Department is pleased at the federal and state legislative initiatives in this regard.

Senators Bradley and Lautenberg and Congressman Florio, together with representatives from numerous other states support aggressive medical waste programs. At the state level, Senator Pallone and former Assemblyman, now Commissioner of Community Affairs Villane have been successfully mustering support for legislation that calls for a strong state-directed medical waste tracking system.

The most difficult paradox concerning the medical waste problem is that although we recognize that immediate action is required to prohibit the assault on our shores, relatively little is known about the distribution of this type of waste at the point of generation.

Therefore, it is our responsibility to implement a program which would survey the potential generator community and develop a database to focus our regulatory authority. This data is critical in understanding the total picture regarding medical waste flow in the State and will aid the Department in developing and tailoring future rules.

As responsible government officials, we cannot allow current existing practices to continue unchecked. We must institute a tracking system to specifically address waste products like bulk blood, pathological waste, needles, syringes, sharps, animal carcasses, and communicable disease-related waste.

The manifest system as Mr. Muszynski has described it will be completed in part by the generator, transporter and disposal facility. The generator has the ability to supply information about the types and amounts of medical wastes being shipped and that information can be concurrently checked by both the transporter and the disposal facility to minimize the possibility of illegal haphazard dumping, specifically, ocean dumping, which can result in medical waste washups.

New Jersey's comprehensive medical waste program will reduce substantially the public's exposure to infectious medical waste. In addition, we believe it is important that health and safety of employees be protected at those facilities handling medical waste.

In addition, our regulations will cover transportation of waste. For example, vehicles which transport medical waste must be constructed according to specific standards. They should be sealed, have leakproof floors and lockable cargo doors as well as structural barriers separating the cargo area from the driver.

The State, together with the federal government must set such standards to reaffirm a commitment to the preservation of the environment and the protection of the public health and well being.

The H.R. 3478 is a substantive and comprehensive bill which addresses the problem of medical waste disposal. Instituting a maximum fine of $100,000, we believe, is a necessary deterrent in preventing the unauthorized and illegal dumping of medical waste and should reduce future episodes of illegal disposal.

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Furthermore, by taking this action, Congress is indicating its clear intent that unpermitted discharges of medical waste represent a more severe violation than any other pollutants regulated by either the Federal Water Pollution Control Act or the Marine Protection, Research and Sanctuaries Act.

Secondly, DEP supports the concept of and is presently formulating rules to effectively track medical waste as I have just described to you.

There is one other item which I would like to discuss briefly. The bill's definition of pollutant includes "any solid waste generated by a facility providing health care services, including veterinary services." Such a definition would seem to exclude facilities such as morgues, biological, microbiological, pathological, diagnostic, or research laboratories which we believe generate a substantial portion of the waste under consideration.

New Jersey believes that the definition of "generator" must include all health care services and veterinarians, as well as non-health care services which produce substantial amounts of medical waste. I ask you reconsideration of a broader definition of the term "generator".

Mr. Chairman, I appreciate the opportunity to be hear and to present these comments. I have attempted to convey a sense of what the DEP is undertaking and how our work ties into the components of the various pieces of legislation that have been introduced.

Ultimately, at issue is the nation's success in dealing with the illegal disposal of medical waste. Clean water, safe beaches free of medical waste, and an aesthetically pleasing environment are essential to the health and welfare of New Jersey's and the nation's population. With measures such as suggested in the legislation before you and pending before other governmental bodies, positive steps may be taken to effectively address this problem. Thank you.

[Statement of Mr. DeBonis can be found at end of hearing.]

Mr. HUGHES. Thank you, Mr. DeBonis.

Mr. Mafrici, welcome.

STATEMENT OF DAVID MAFRICI, ASSOCIATE DIRECTOR, HAZARDOUS SUBSTANCES REGULATION, NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Mr. MAFRICI. Mr. Hughes, Mr. Saxton, on behalf of Commissioner Jorling, the New York State Department of Environmental Conservation, I wish to thank the subcommittee on oceanography for inviting me to attend, and participate in this particular hearing.

My name, as I mentioned, is David Mafrici, and I am the Associate Director for the Division of Hazardous Substances Regulation in the Department of Environmental Conservation. I have been one of the Department's staff who has been actively involved in preparing infectious waste regulations and the manifest, in conjunction with staff from our own State Health Department.

First of all, I would like to clarify that although the responsibility for transportation of infectious waste happens to be within the Division of Hazardous Substances Regulation, we do not consider infectious waste a hazardous waste.

Our Department recently experienced a reorganization of the solid and hazardous waste programs. The responsibility for the transportation of infectious wastes happens to fall within our division. Again, infectious waste is not a hazardous waste in New York State.

What I would like to do is discuss three areas as it relates to the medical waste problem. The first is comments on H.R. 3478, secondly, what we are doing in New York State in conjunction with the State of New Jersey; and, thirdly, a short discussion on the universe that should be regulated.

To begin with, on H.R. 3478, we are in agreement with the concept that medical waste be classified as a non-hazardous waste. There has been other types of legislation which would place infectious waste in the hazardous waste arena.

Secondly, we are also in agreement that there should be a manifest system for infectious wastes. We do not object to the U.S. EPA promulgating regulations and inspecting health care facilities, however, we do not believe that this is the proper function for EPA. EPA's role should be to provide technical assistance and guidance to the states. EPA should develop model state programs and regulations. Also, EPA should provide and distribute educational material.

There are two areas of concern that we have with the proposed legislation. The first is the definition of medical waste and the second is the universe to be regulated. Under the definition of medical waste, we feel that it is too broad since it appears to include all solid waste from health care facilities. This would mean that all particular wastes, such as paper waste, packaging, cafeteria waste, other food waste, and all office waste would fall under the regulated scheme.

I do not know if this is really the intention of the Congress.

The same would apply to the manifesting. The legislation would require manifesting, again, of all solid wastes, including these materials I mentioned. Again, we do not know if this is the intention of the Congress.

As it relates to the universe, the question is: What universe is it Congress's intention to regulate? Will it include all individual physicians, dentists, public health nurses, home care diabetics? This is the question that will truly change how to regulate and implement an adequate infectious waste program.

Briefly, I would like to discuss what we are presently doing in New York State. We previously had regulations that governed generators, transporters, and disposers of infectious waste. The State Health Department regulates health care facilities, while our department regulated the transportation and off-site disposal facilities.

At this time, I think I would like to clarify that there appears to be a difference in terms that are used. We would say that there are medical-type wastes and they are basically classified into three streams. One part of it would be the type of waste that is not regulated. That would be food, cafeteria waste, office waste, packaging, and paper. That is identical to the type of waste that you and I would throw out at our homes. This is not regulated as far as

transportation is concerned in New York State, although it has to go to a regulated disposal facility.

The other two types of waste that come out of a medical type waste are indeed regulated in New York State. The first is what we would call the infectious waste and this is what all of our legislation is about. The second is the non-infectious waste. In both cases, the transportation of this waste is regulated in New York State. The difference is that non-infectious waste can be deposited at a landfill, while the infectious waste can only go to incinerators.

With the recent problem of infectious waste, commonly called "red-bag" waste being improperly and illegally disposed of, our New York State Legislature passed new legislation to augment and reinforce our existing rules and regulations. The implementing legislation became effective April 1 of this year.

In addition, the legislation requires the State Health Department and the Department of Environmental Conservation to promulgate regulations and to develop a plan for the treatment and disposal of infectious waste.

During June of this year, the Department of Environmental Conservation issued proposed regulations and held public hearings on the air emissions from municipal and medical waste incinerators and for off-site treatment storage and disposal facilities.

We have been meeting recently with U.S. EPA Region II and the State of New Jersey to promulgate similar infectious waste regulations that would properly govern the transportation and manifesting of infectious waste. It is my understanding that on Wednesday, the two states will be issuing emergency regulations.

In addition, New York State Legislature is presently considering revisions to enhance and strengthen the civil and criminal penalties involved in the legislation. One of the revisions will also include the elimination of the 100 kilogram per month exemption which would increase the universe beyond the present hospital, nursing homes, and clinical laboratories.

Basically, some of the highlights of our emergency regulations that hopefully will take effect this Wednesday include ownership of vehicles. Transporters will have to own their vehicles. They will no longer be allowed to lease or rent vehicles. We will have secondary and storage containment requirements, which means that the infectious waste must be placed into red bags which, by the way, will have the name and the address of the facility generating that waste and then placed in a secondary containment or drum, if you will, before it is transported and properly disposed of.

We will have decontamination procedures and the quantity exemption that presently exists for all regulated waste will be reduced down to the 100 kilograms.

Protective clothing will be needed on the vehicles. The transporters will not only have to have their permit numbers and their names of the firm on it, but also the words, "infectious", on both sides of the vehicles. This way, you could certainly notice the truck coming through.

There will be recordkeeping required for the transporter. That is, he will have to maintain a daily log of all of the stops that he makes and the quantities of waste that is picked up as it relates to infectious waste.

In addition, the transporter will have to have a million dollars worth of environmental liability insurance in the event of a spill.

The generator will have to make out a four-part manifest. This is similar to what the federal manifest is for hazardous waste, however, hopefully it has been simplified and easier to understand.

In addition, we will have in the bags, a minimum of two floatable identification tags. These are the changes that we have in the legislation that hopefully will become effective in the next two days.

In addition to that, the State Legislature is considering changing the penalties and will greatly enhance the criminal and civil aspects of it. It will include violations, Class A misdemeanors, and Class E felonies.

Lastly, one of the considerations the Legislature has is reducing the exemption and regulate everyone who generates or transports, and disposes of infectious waste. The problem that does come about with that is when you include those individuals in the entire universe, you are increasing the universe. For example, in New York State from approximately 2,000 of the regulated community to approximately anywhere from 60,000 to 100,000. And if this increase does come about, especially on a nationwide basis, the question is: Will funds be appropriated to implement the program?

It is very nice to have legislation on the books, however, unless we can actually enforce it with adequate staff, it will be very difficult to have a program that is truly reliable.

I thank you for listening and I will be glad to answer any questions you may have.

Mr. HUGHES. Thank you, Mr. Mafrici.

Mr. Blumenstock, welcome.

STATEMENT OF JAMES BLUMENSTOCK, DIRECTOR, CONSUMER HEALTH SERVICES, NEW JERSEY DEPARTMENT OF HEALTH

Mr. BLUMENSTOCK. Thank you, Mr. Chairman. My name is Jim Blumenstock, and I am Director of Consumer Health Services for the State Department of Health. I also have the privilege of chairing the Department's Medical Waste Management Task Force that has been in existence since August of 1985.

It is indeed a pleasure to be able to address the subcommittee on oceanography on an issue that poses an imminent threat to our environment and to the health, safety and welfare of the residents of New Jersey. That is the issue of the disposal of medical waste.

The New Jersey State Department of Health supports the concept and commitment expressed in H.R. 3478. However, we have two concerns that we wish to bring to the subcommittee's attention.

First, the provision amending the term "material" to include any solid waste generated by a facility providing health care services, including veterinary services, is overly broad. This definition would include some forms of medical waste that carry only a minimal or non-existent public health threat. The breadth of this amendment would impose additional, but unnecessary regulatory responsibility upon the Environmental Protection Agency. Finally, the overreaching effect of this amendment would have a substantial financial impact upon the generators of these kinds of medical wastes.

As an alternative, we offer the following amendment to the term, "material". The term "material" shall include:

(1) cultures and stocks of infectious agents and associated biologicals including specimen cultures, culture dishes and devices used to transfer, inoculate and mix cultures, wastes from the production of biologicals, and discarded live and attenuated vaccines.

(2) Bulk blood, blood products and body fluids other than urine, at least 20 cubic centimeters in volume.

(3) Pathological wastes consisting of tissues, organs, body parts including products of conception which are discarded after surgery, obstetrical procedures, autopsy, and laboratory procedures.

(4) Needles and syringes or any other article that are potentially infectious and that might cause punctures or cuts including IV tubing with needles attached, vacuum collection containers and vials containing blood and blood products and other similar items.

(5) Animal carcasses, body parts, bedding of all research animals that were intentionally exposed to pathogens.

And, finally, (6) Waste generated from rare, unusual or special cases involving highly communicable diseases as determined by the various State Health Departments or, more appropriately, the Centers for Disease Control.

Secondly, the scope of generators covered by H.R. 3478 should not be limited to only those facilities providing health care services, including veterinary services. The scope of generators covered under H.R. 3478 should be expanded to include any generator who produces material as the term would be amended by this act.

On behalf of Commissioner Coye, the New Jersey State Department of Health appreciates the opportunity to provide input on this important issue of medical waste disposal and on H.R. 3478. And that concludes the formal part of my testimony. I would be glad to answer any questions as well.

Mr. HUGHES. Thank you, Mr. Blumenstock.

Mr. Muszynski, can you tell me, you issued some guidance or a guidance with respect to medical waste. The comment period was to close in early August.

Mr. MUSZYNSKI. We are currently evaluating the comments we have. As of roughly the end of the last week in July, we received about 38 comments on that. And the comments ranged from basically getting a comprehensive definition—I think one of the things, as I understand your proposed legislation, the agency would have some flexibility in defining that type of medical waste that would be covered which may knock out some of the concerns that were expressed earlier about the wide range of materials that possibly would be covered. But we are currently evaluating those comments. Thirty-eight comments across the nation do not seem like a lot considering the magnitude of the problem in this particular area.

Mr. HUGHES. So, basically, you are in the process of just reviewing the comments? The comment period closed August the 3rd?

Mr. MUSZYNSKI. August 1st, I believe.

Mr. HUGHES. Do you have adequate legal authority now to implement a manifest system?

Mr. MUSZYNSKI. The Agency could and back in 1978 did potentially start the process to include infectious waste as part of the

hazardous waste regulations. However, the comments at that point in time was that most health agencies in states did not believe that medical waste should be included under the definition of hazardous waste for a variety of reasons, one of which included the stigma of the term, "hazardous waste", and making it that much more difficult to get rid of legally. Therefore, the Agency, decided not to include infectious waste within the requested system developed for hazardous waste.

At the current time, as I have indicated in my testimony, we are supportive of the regional idea to put into place a system and, in a sense, pilot it to see how it would work, to analyze the pitfalls, to see how effective it is in this particular area and then to be able to translate our experiences on a national basis.

Mr. HUGHES. I understand that. But your answer is that you do have ample authority now in the law——

Mr. MUSZYNSKI. Yes.

Mr. HUGHES [continuing]. Under RCRA to implement a manifest system.

Mr. MUSZYNSKI. Yes, we do.

Mr. HUGHES. And every member of the panel has expressed some concern about the definition and what it is we want to really capture. I think we can all agree that we would not want to impose regulations for non-infectious waste. Solid waste, as such that is being generated in the cafeteria, for instance, or in an office building, in a health care facility. Mr. Blumenstock went one step further by advancing a definition of what we should be covering. Do you have any problem with that definition, Mr. Muszynski? Did you listen——

Mr. MUSZYNSKI. I listened to it and I know that we have a regulation—a guideline, guidance document which off the top of my head that sounds similar to what we would include in the term "infectious waste". There are some differences I think between us and CDC that should be ironed out in any sort of national definition.

Mr. HUGHES. I did not hear in any of those five categories gauze and rags and things of that nature that might have become contaminated. Was that covered by any of your categories, Mr. Blumenstock?

Mr. BLUMENSTOCK. Mr. Chairman, the State Department of Health in consultation with the Centers for Disease Control have taken the position that medical waste has two subcategories, one being non-infectious and the other category being infectious. All the experts agree that there are certain components of the waste stream that are truly infectious, most of which I have mentioned in my presentation. The area of controversy is the non-infectious medical waste stream. Many of the experts cannot agree on exactly what is or isn't transcending from the category of non-infectious to infectious.

To answer your specific question concerning blood gauze. Again, just by the mere fact that it is a bandage or gauze or contaminated with body fluids, we do not take the position that just because of that type of contact or contamination that it is infectious. We feel that if this type of material is properly handled, it can be disposed of safely and legally in a sanitary landfill.

The only caveat to that, we do mention if that material does come from a patient with a highly communicable disease as determined by the Centers for Disease Control—the State Health Department, then that specific material would be infectious. But not every bandage, no every tongue depressor, not every disposable diaper would be considered infectious by the State Department of Health definition. And, again, that position is supported by many other state agencies and the Centers for Disease Control.

Mr. HUGHES. Well, I can see where that might present some enforcement problem because that would be up to the health care facility to make a determination as to whether or not the gauze or the rags or whatever is contaminated with material, body fluids, or whatever, might be infectious.

Mr. BLUMENSTOCK. Correct.

Mr. HUGHES. They are giving a lot of discretion to the health care facility.

Mr. BLUMENSTOCK. The issue of enforcement, again, would pertain to in-house enforcement. My state agency, as many other state agencies, do have right of entry and statutory responsibility to enforce most of the major health care facilities within their jurisdiction. During those enforcement actions which have been longstanding, we would evaluate the facility's infectious control procedures, their solid waste handling and make a determination of compliance before it becomes a problem as a means of prevention or a precautionary measure. So, it would not pose an enforcement problem for us within the facility as we are evaluating their operation for compliance.

But there is no denying the fact that if you found the bandage laying on a beach, there really would be no way for any other enforcement agency to determine if it came from an infectious patient or not.

Mr. HUGHES. Well, of course, I am concerned about the broader public policy issues than just the ocean dumping issues. It seems to me that what Mr. Muszynski has said is that they want to begin a pilot program to try to track medical waste. In fact, EPA has supported, has it not, S 2680 which was just reported out of the Senate which requires EPA within nine months to implement a program for the region. And EPA does support that, as I understand it.

Mr. MUSZYNSKI. Yes.

Mr. HUGHES. Now, my question is: I cannot imagine what we see in the northeast that is not being a problem elsewhere around the country. If the cost of disposing of hospital waste, infectious waste, is increasing around the country, and I understand it is, I would suspect that we have the same chiselers in other parts of the country. We are just not catching up with them. Is that fair to surmise?

If you can make $2,000 on a load of medical waste, there is going to be a tremendous incentive for haulers and generators of waste to do just that. Would you think not, Mr. Muszynski?

The temptation, for instance, for a doctor or a health care facility to put medical waste into their trash bin is going to be great.

Mr. MUSZYNSKI. Again, the way the Agency perceives the national issue is that with respect to this particular area of the country, clearly, the medical waste issue, whether they be from the drug areas or from laboratories or from hospitals that are finding their

way into the water, are clearly a problem that requires some method of addressing.

With respect to the national issue, while the incentive is always there for people to skirt law or to take advantage of areas where there are possibly loopholes in the law, we do not from discussions—certainly, I do not from my discussions with any counterparts in the other 10 regions have information to suggest this is a significant issue in the other regions. They do not have a similar type of problem. And perhaps part of why we do is due to the pressures that this particular region is under from space, population, and that many hospital facilities in other parts of the country could be using on-site incinerators. So, therefore, this regions need to transport and I think this is what seems to be part of the problem, that as the need to transport this material greater distances to treat and dispose of it off-site, particularly, which has been created by the failure of many of incinerators that used to be on-site to meet the Clean Air Act, there, has become this significant problem in our region.

Mr. HUGHES. I would think that that it is true, that transportation is a major component and that as we have to transport the medical wastes longer distances, it creates a greater temptation to cheat and to chisel and to try to save those costs.

By the same token, as the disposal of medical waste increases by the bag or by the ton, I would think the same incentives are created. I just wonder and I am wondering out loud, whether or not we do not have a very similar problem around the country, and we are just not catching up with it because we are burying our mistakes and our waste in solid waste landfills that were never intended to take medical or infectious waste.

Mr. MUSZYNSKI. That is part of the reason that we went out with the Federal Register notice to ask those very questions and to get a sense of the problems in the rest of the country. So, in 1978, we went and got a sense that this material should not be covered. We have now gone out again, to see if there is a sense out there beyond the shoreline communities that are being deluged with material, whether or not there should be more national controls. So far, we have not gotten that type of response.

Mr. HUGHES. Well, I think that is because, as I say, I do not think we are catching up with it. I mean we do not have a manifest system. We really have a very hard time identifying it. We have had grand juries in our state trying to identify the generators of the waste and it has been impossible, because while we could put all the criminally statutes on the books, meting out serious penalties, until we provide the tools to be able to track this stuff, we are not going to be able to secure the evidence necessary to make an example out of those who would dispose of this waste.

Let me just ask a related question. Do we really know where, for instance, the medical waste that are washing up on our beaches comes from?

Mr. MUSZYNSKI. No, we do not. As I have said, we believe it is from a variety of sources. Part of the problem with tracking any material in the forms that we have seen it is that there are no identifying marks on the needles themselves. There are not identifying hospital-type names on many of the materials, although re-

cently our agency is looking into this report that some material that showed up on the New England beaches was from a hospital in New York City. And we are trying to track how that got through the process and potentially wound up in the water. But it is very difficult to track this material, even—well, its just very difficult to track this material.

Mr. HUGHES. Mr. Mafrici, we are identifying physicians that are disposing this medical waste, this red bag waste out into their own trash receptacles, are we not?

Mr. MAFRICI. No. Under the present laws, most of them exempt people under or generator under 100 kilograms per month, although they are supposed to dispose of them properly, they do not come under the same regulations as those who are greater than 100 kilograms.

Mr. HUGHES. Well, that is because they are exempt.

Mr. MAFRICI. That is correct.

Mr. HUGHES. But are you making any cases in New York State, physicians and other small health care providers that are just disposing of their human body parts and other medical wastes, infectious wastes into the regular solid waste stream?

Mr. MAFRICI. The present regulation has the exemption. The legislation that just passed our Senate and will be going before our assembly in another week will eliminate that exemption and it will include every person that is involved.

Mr. HUGHES. I know, but are we not catching physicians and others that are just disposing of it in their trash cans now?

Mr. MAFRICI. Well, I do not know if we can say we are catching them——

Mr. HUGHES. I know we are in New Jersey.

Mr. MAFRICI. If you are asking are there some physicians that dispose of theirs in the trash cans, the answer is, yes, they probably do. How many of them are caught? We do not know. New York City has its own regulations where they, if their sanitation workers find them, they will do something to go after that particular physician or, in fact, they will not pick up the garbage for that particular building. That is their approach.

Mr. HUGHES. Mr. Muszynski?

Mr. MUSZYNSKI. Mr. Chairman, that is where, at least with the exception of the laboratories in New Jersey that violators recently have been caught, New York City has tightened certain restrictions relative to some of the doctors and I believe they have found some people who were doing things improperly under their sanitation code.

Mr. HUGHES. New Jersey caught a major hauler who was transporting medical waste—of course, we do not have a system to track it, he was convicted and fined. He apparently was not long out of court before he set up operation in Philadelphia. He had a warehouse full of red bag medical waste in Philadelphia. The way the Philadelphia authorities caught him was because the neighbors started to complain about the stench. So, we do not even attempt to track those that are convicted of illegally disposing of medical waste.

I fear one thing that is occurring. I can see why EPA wants to be very careful in crafting a regulatory scheme that is not overly

broad. Nobody wants to saddle the generators, or haulers or incinerators or secure landfills with any more paperwork than is necessary, but I can see if we just set up a regional system for New Jersey, New York and Connecticut that we are going to see wastes from other neighboring states come in to New Jersey which we do not track. Pennsylvania, for instance, or Delaware. Because there are enough dollars that can be made in the business that unless we have a system that is universal, we are not going to prevent the dumping in our state. And if all we do is attempt to track what is generated in that Tri-State area, New York, New Jersey and Connecticut, we are going to see other states in the region, other haulers dumping in our areas. Is that not what is going to occur?

Mr. MUSZYNSKI. I would hope not, but I also hope that perhaps because as a result of this pilot operation, these other states may embrace the manifest systems.

Mr. HUGHES. Well, I have spent 25 years in law enforcement one way or another, either as a prosecutor or else working within the criminal justice system. I find that it is human nature, particularly when the incentives are so high you are just going to invite neighboring states to dump, if all you have is a system that covers the three states.

Does anybody want to comment on that? Anybody else?

Mr. DEBONIS. Briefly, if I might, Congressman. Just going back to your other point, I think this area of the country is a little bit different, particularly New Jersey, because we have gone through a situation in the last few years where the cost of solid waste disposal has truly skyrocketed because of the fact that we have implemented state-of-the-art controls on solid waste landfills. Most of our landfills in the state, now, have double liner systems and controls of that nature to where the average cost is $50 per ton.

For those of our counties who are now disposing of their waste out of state because their facilities are not yet on line, they are paying upwards of $100 and $125 a ton. Those are extremely high figures for most areas of the country. When I travel around and meet with my colleagues in other states, they cannot believe we are paying that much for solid waste disposal. So, the incentive is increased in this area, much more so than, say, in the midwest and other areas where most of this waste—again, the special waste, if it is autoclaved and if the mechanical hazards such as the needles and the blades are taken care of, has gone into landfills for years as it has in New Jersey. It is just a question of now that the costs are that much higher and particularly with the waste that is going out of state, other states are sensitive to being the recipients of disposed garbage from New Jersey, particularly so in the case of medical waste and they have not been very cooperative. And I cannot say I frankly blame them in terms of accepting that medical waste. And, so, the regulations have been more stringent in effect for New Jersey's medical waste. Again, it has all driven the cost up in this area much more so than in any other area in the country.

Mr. HUGHES. Well, I suspect that EPA is up to their eyeballs in all kinds of other enforcement areas. This is just another area where they look upon it as an additional drain on limited resources. I understand that. But we are going to find that it is going

to cost us a lot more in the long term if we do not put in place a uniform system nationwide to deal with infectious waste.

I do not think you would get much argument from this audience or any audience around the country. It may be much different than toxic waste, but it is a difference without a distinction, as far as I am concerned. And, frankly, we need in place a system that is uniform that is national in nature and I applaud the efforts to move ahead, since we have a major problem in this region, on a regional basis. That has to be the first step towards a nationwide system.

Yes, sir?

Mr. MAFRICI. Congressman, I agree with you that a nationwide uniform system is certainly better than a regional. And that is probably the way to go. However, until two basic issues are truly resolved, not much is going to get done. The first is a definition of infectious waste. That can be done. Not all the states agree. New York and New Jersey do not agree down to the final item whether something is infectious or not. However, neither does—neither do, rather, different government levels. The CDC, OSHA, EPA, different states. So, what you are dealing with is a potential of 50-some-odd different definitions.

That is why we say the best thing to do is to have EPA coordinate an effort with these other states, states that are interested and with these other governmental agencies. Without CDC, it is a lost cause. There is something called "universal precautions" that have to be taken into account.

Once you develop that definition and a definition that is enforceable—regretfully to say, every definition we have seen so far is not enforceable. You have to go back to the origin: Prove to me where that waste came from. When you find it on the beaches, there is no way of proving where a band-aid or a gauze or a hypodermic needle come from. You just cannot do it.

You have mentioned that you have had 25 years of enforcement. Then you can appreciate that all of that goes down the drain. If enforcement goes down the drain, your total program along with it. And you are just putting money and effort and a lot of paperwork into nothing.

Mr. HUGHES. You are absolutely right. You have to have both. You have to have first the manifest system in place and you need to also have the resources——

Mr. MAFRICI. Right. That is the second key, I think. It is very important. Because as you reduce that universe down to zero, you are bringing in individuals. It is like attempting to regulate the individual homeowner who is barbecuing and emitting dioxins or whatever he is emitting into the air or the individual home owner under the RCRA program who is exempt. It is a crazy term that is used in RCRA: "household hazardous waste." It does not make sense because it is exempt. All right? And this is what you are going to be dealing with here.

So, unless the monies come along with it, whether it is at the federal or state level, again, it is not going to work.

Mr. HUGHES. I agree.

The gentleman from New Jersey, Mr. Saxton.

Mr. SAXTON. Thank you.

I would like to thank you for being here this morning because I think you have bought us some measure of good news. The good news I think is that on Wednesday of next week you are going to announce a program which is geared toward perhaps step 1 and a very important step of bringing into place some regulations on the state level to deal with the problem that we are here to talk about. And I think you should be commended for that movement.

Let me just ask. On Wednesday, if you can say so at this point, and you have outlined for us in rather good detail, I think, what the program is going to look like: various regulations and attempts to control medical waste. Will that be effective on Wednesday or will that be effective at some date in the future?

Mr. MAFRICI. It is my understanding that both states are implementing emergency regulations which will be effective that date.

Mr. SAXTON. And inasmuch as they will be effective that date, would you expect that at some point in the near future you would begin to see some results from those regulations?

Mr. MAFRICI. Yes.

Mr. SAXTON. Has there been any kind of an estimate made as to what type of effect that will be? When will it start to be felt? What kind of results might we expect? Particularly, in terms of next spring and summer.

Mr. MAFRICI. Well, hopefully, by next spring and summer, we will have a better regulatory program on the books. And with that being the case, certainly, it should resolve many of the problems that we have. However, the definite illegal type of disposal probably will continue. But if both states have an active and aggressive enforcement program to go along with it, hopefully, that should resolve a good portion of that, also.

Mr. SAXTON. I mentioned earlier the necessity for an enforcement program. Does the State of New York have the capacity, the resources and the plans to implement an enforcement program for this emergency set of regulations?

Mr. MAFRICI. The Governor has asked for a $2 million emergency promulgation of funding which I understand the Department and other departments will be getting. And they are geared mainly towards the enforcement aspects. More what we call Bureau of Environmental Conservation Investigation Police. Similar to State Police, but they deal strictly in environmental conservation. We presently have approximately 300 of those. They expect to have more people involved and then dedicated for infectious waste. So, the answer to that is, yes, we plan—the State plans to get money on an emergency basis.

Mr. SAXTON. Does $2 million sound like—and I do not know the answer to this question—enough money to have an effective——

Mr. MAFRICI. It is a good first start. It is 2 million more than we have now.

Mr. SAXTON. But that does not answer my question. Do you expect that that is going to be a full-blown program which will provide for the type of enforcement that will be effective in making sure that the citizens of Long Island and Long Beach Island next summer have some measure of relief from what we have seen this summer?

Mr. MAFRICI. I think it will be effective for the present program that we have. If we drop the universe down to zero, no. The answer will be that it will not be effective for that.

Mr. SAXTON. Mr. Mafrici, I am concerned about—in a sense I understand what you are saying about the definition of what type of waste is hazardous, whether we should talk about hospital waste. And I understand your concern about cafeteria waste and other household type waste that might come out of a hospital. But I am also concerned that the definition be made one which will be effective. And your assertion that perhaps hospital waste in a general sense in our bill is too broad causes me concern for one reason.

Last week in The Washington Post, an article appeared which says—and let me just read the first two paragraphs. The headline is "Most New York Hospitals Illegally Discard Waste." And it says:

> More than half of the City's 83 private and municipal hospitals have been putting infectious waste in regular garbage, city officials said. The Environmental Control Board has fined 50 hospitals a combined $481,000 from November 1985 to May 1988 for the illegal practice, the Sanitation Department said, confirming a report in yesterday's New York Post.

And the article goes on from there. Well, if there is an estimate that 50 percent of the hospitals in New York are illegally discarding infectious waste by mixing it with regular waste, does that cause you some concern that we need a broader definition? Maybe not exactly the one that is in the bill that we proposed, but one that would safeguard against that type of potential illegal dumping?

Mr. MAFRICI. I do not know if that particular problem will be resolved by the definition. It is really an enforcement aspect. Generally, at the hospitals, proper separation is needed and if there is adequate enforcement, then you should not have the problem.

I am not quite sure—you are quoting a newspaper. I am not quite sure I know all the facts on that.

Mr. SAXTON. Well, I am not sure I do either, but it was enough of a story to appear on the front page—the front section, at least, in one of the major newspapers in the country. And that causes me some concern. I suspect that newspapers do have an option of stretching things sometimes, but if there were not something to the story, I suspect that it would not be there.

Mr. MAFRICI. However, what that tends to allude to is that basically half of the hospitals are dishonest and are doing that. And I do not believe that has been the case. At least the investigations that have been conducted, you have a few problems, but certainly not to that degree.

Mr. SAXTON. Thank you.

Mr. Muszynski, first let me say for the record that I have enjoyed the cooperation that you and your predecessor in the Northeast Region have exhibited towards my office and toward my constituents and towards the problems that we have faced, and I want to say to you together because I have always had the feeling that your Northeast Region, Mr. Daggett and you and your staff have been fully cooperative in trying to meet the needs as we have together perceived them on this subject and others that had to do with the environment in the northeast. And I want to commend you for that.

But I cannot say that I have the same feeling toward the EPA generally. And I guess I should say that I recognize the difficulty that you have in trying to work as hard as you do to make things right.

When we try to communicate with the EPA in Washington, we do not oftentimes meet with the same type of cooperation that we do from you. When Congressman Hughes and I first proposed this legislation last October, we recognized quite readily that we did not have to have this legislation. That the EPA could proceed to implement regulations that would in effect carry out the same objectives as would our bill. As a matter of fact, even once our bill is passed, it would require, at best, the cooperation of EPA in order to promulgate the regulations that would go along with our bill to make effective the nationwide program of manifesting.

And when I contacted the EPA in Washington, their attitude was one of perhaps what I term "forced cooperation." Or an attitude that, "Well, Congressman, if you really want us to go through the motions, we will." And then one day I read in the newspaper where one of the higher ups in Washington who I had been communicating with referred to the medical waste washups as an aesthetic problem. And I know you do not feel that way because we talked about this on Thursday. But I know that for some reason or another—and, you know, I have not been one who has been particularly critical of EPA, mostly because of you and Chris Daggett. But I wonder if this attitude is persuasive within the Environmental Protection Agency.

I do not look at medical waste and I do not think anybody else in this room looks at medical waste as an aesthetic problem. We look at it as a health economics problem. We look at it as an environmental problem. We look at it as an economics problem. And I am just wondering—and I know that you are inside the EPA and I am wondering if you sense the same attitude that I do from perhaps your higher ups?

Mr. MUSZYNSKI. Well, I thank you for the comments on the region. I think—again, I cannot answer for what you ran into there. I would like to think that our agency is always responsive to these types of concerns. The issue, though on the medical waste may have been somewhat clouded by the prior experience that we had in going out with a proposal, somewhat also the issue of whether or not we do it under the hazardous waste provisions which, as I read your proposals here, it would be different than the hazardous waste portion of the RCRA law. So, in that sense, it is a different proposal because the initial time that we went out, the attitude that medical waste, hospital waste were going to be considered hazardous waste with all the various rigmarole that goes with the definition of hazardous waste. I mean we met with, for instance, with the doctors' associations and one of the concerns that they had was that when trucks do pull up to their establishments with rather broad lettering on it, that does cause them somewhat concerns for the rentals and their ability to conduct business in places like that. So, there is a certain feeling that this is more of a local regional problem and, for that reason, should be resolved here.

Mr. SAXTON. Well, I can understand the EPA taking into account various points of view. I can understand the EPA talking with doctors and organizations that represent hospitals. And I think that that is good to do as long as we keep in perspective what is important to the environment. And, certainly, here along the New Jersey shore as we have pointed out over and over, again, in the past—I was going to say "today," but in the past weeks and months and even years, there is a very, very serious health/environmental/economic problem.

I sat with my doctors, the representatives of the American Medical Society, from my district, last week. They come in to see me once a year about issues that concern them about the practice of medicine and what the federal government is or is not doing.

Do you know what they wanted to talk about? Ocean pollution. They are concerned just like all the rest of us are. And at the end of the conversation, they did not like the provisions of our medical waste bill because it created an inconvenience and I said—and perhaps at some cost to the medical society, the medical profession—and I said to them at the end of the conversation: "I have benefitted from this conversation and I hope you have because you have expressed the same serious concerns about the ocean that I have. And would it not make sense to you to go along with whatever it is that we are going to try to do to regulate the disposable syringes and blood vials, even though it causes you some discomfort and some cost?" And they agreed. They said, "We have got to do something about this."

So, when you talk about talking to the hospital associations—and we are going to do that today, too—and the medical society, I think it is good to keep in mind that, certainly, the crux of the problem that we are trying to solve is going to take the cooperation of those folks. And I know that they are willing to do that.

Let me turn to something else. When you talked about the bill, you talked about the definition of infectious waste that EPA holds. I noticed in the Solid Waste Disposal Act, which we generally refer to as "RCRA," the term "hazardous waste," and let me just read this.

The term "hazardous waste means a solid waste or combination of solid waste which because of its quantity, concentration or chemical, physical or infectious characteristics may cause a significant contribution to the increase in mortality * * *" And so on.

So that within the legislation's definition of hazardous waste, we have included infectious waste. Now, to your knowledge, does EPA differ from that definition which is law?

Mr. MUSZYNSKI. We do not differ. What we have said is that because of that being included in a definition of RCRA that it would not take special legislation for us to implement regulations to regulate or put this type of material under a manifest system. So, in that sense, we do have the authority, as I have indicated before I think in response to a question. We do have the authority to implement the system without additional legislation.

Mr. SAXTON. Again, I want to thank you for your cooperation, all four of you. You have been very helpful and excellent witnesses. And, again, I think I can speak for everyone in the room when I will tell you how pleased we will be to hear on Wednesday your

announcement that will probably, at the very least, be helpful as the precursor of whatever the federal government decides to do nationally. Thank you very much.

Mr. HUGHES. I want to thank the panel, also, and particularly you, Mr. Muszynski. You have testified before two different committees in the last week and I know it was on very short notice, particularly with regard to the hearing last week before the Subcommittee on Crime. I appreciate your coming in to testify. I, too, want to echo the sentiments of my colleague in congratulating you for moving ahead as you have so expeditiously. We look forward to your announcement next week. Thank you.

Our final panel today consists of Mr. Craig Becker, President, Government Relations Center for Health Care Facilities; Mr. Donald DeVries, with the New Jersey Association of Health Care Facilities; Mr. Christopher Haynes, with Decom Medical; Ms. Karen Kiss, Alliance for a Living Ocean; Mr. Jack Quinn, Medical & Hazardous Waste Management, Inc., and Dr. Robert Abel, President of the New Jersey Marine Sciences Consortium, and Ms. Cyndy Zipf, who is the President of Clean Ocean Action.

Will the witnesses come forward at this time. We have your statements, which without objection will be made a part of the record. We hope that you can summarize your testimony for us. Why do we not begin with you, Mr. Becker?

STATEMENT OF CRAIG BECKER, VICE PRESIDENT, GOVERNMENT RELATIONS, NEW JERSEY HOSPITAL ASSOCIATION

Mr. BECKER. Thank you, Mr. Chairman. My name is Craig Becker and I am Vice President for Government Relations for the New Jersey Hospital Association. First, I would like to thank you both for allowing me to testify today. We appreciate the opportunity to put forward our testimony.

I would like to start out by saying that we support a manifest system. In fact, we have been working with the state and various groups for the past year to come up with a workable manifest system, but I think the key word here is "workable" or "doable". Our big concern is that the manifest system that would be imposed upon us would be one that we could live with and, most importantly, would be effective.

We at the Association feel confident that—and particularly as time goes by, are convinced that—it's not our members' trash that is washing up on the Jersey shores. We have a stake in this State. We have to work here. We have to live here. And we believe that we already have some of the most stringent regulations on the books, nationally, that assure that our hospitals are in compliance with making sure that we properly dispose of our trash.

Let me just give you a brief idea of some of these regulations. In the State of New Jersey, at least, for hospitals, we are required to dispose of needles and sharps in crush-proof boxes. Then before these boxes can be landfilled they must be completely obliterated. This is done either through incineration or crushing. So, again, we are fairly confident that the needles you are seeing that are washing up on the shores on New Jersey beaches do not come from New Jersey hospitals.

As for the infectious waste, it must be incinerated, sterilized or properly landfilled. And, again, we feel fairly confident that our hospitals are doing it in a proper manner.

The biggest problem that we see is that we are obviously the easiest and most prevalent target of any kind of legislation. But there are only 106 of us. And, as was pointed out previously, we have numbers of 7,000. However, I have heard numbers of up to 40,000 individuals or corporations or whatever generators of infectious waste that you are going to have to deal with.

So, again, we would hope that any kind of manifesting system that you came up with would be one that would be workable and one that we all could live with.

Again, we support the manifesting system because we know we are not the "bad actors" of this problem. We would welcome the comfort provided by such a manifesting system. Again, I would like to add a few caveats to this. It must be doable and the fact that we would be putting medical wastes in the same category as hazardous certainly would cause great difficulties for many of our members. We would submit that New Jersey hospitals are not chemical companies and should not have their waste stream treated as the same.

The coalition that we put together last year has come up with this manifest system; and, certainly, one of the easiest ways of doing it would be the creation of a coupon system. We feel that this would create an easily traceable paper trail and it would determine the responsibility for waste not properly disposed.

That has been going on in great detail in prior testimony, so, I will not go into that; but I would like to say that what we find is that the system that we have been looking at would be such that the liability for any of the improper disposals would move along as the trash moved along. The generators would not be held strictly liable for this. There has been quite a bit of controversy and conversation about whether or not we should make the generators strictly liable. We would contend that perhaps that would not be the best way. The best way would be for the person who actually did improperly dispose of any of the infectious waste be held liable.

Our other discomfort over the bill arises from the definition of medical waste as, again, has been previously stated. We feel that it would be much too broad if we included all of our waste stream. Just to give you an idea, in terms of non-infectious disposal costs right now, you have heard testimony, run the gamut from $50—our figures show about $100 per ton. Our infectious waste disposal cost is about $1200 per ton and we suspect that after Wednesday's announcement by the governors that it will probably go up significantly.

Again, we believe that the hospitals are not the bad actors in this, but we will gladly pay for it if it will give us any comfort.

Any increased cost that will come from the increase in the disposal cost obviously is going to be reflected in increased charges to the consumer. And, if you are talking about a difference between $100 per ton to $1200 or $2,000 per ton, considering that about 20 percent of our waste stream is only the infectious, then it is certainly going to be a big problem in terms of added costs.

Finally, we would like to share just some of the long range thinking that we at the Association have been carrying on in terms of

the disposal of not only infectious waste material, but all of our waste stream. As disposal costs increase and the pressures to close landfills grow, hospitals along with other disposers are going to find that they are going to have to look to alternative sources. The best one, at least for the short term, that we have seen is the incineration of trash, infectious and non-infectious. About one-third of our members have generators on site that deal with the gamut of just doing the infectious waste for the sharps and needles right up to doing the entire waste stream and using it as a co-generation system. That is probably the most effective and the most exciting way of getting rid of our trash, that we have seen now.

However, there are clearly some drawbacks. I think that you would probably have all the hospitals agree to go to the incineration. The incinerators, themselves, run anywhere from $250,000 to a half a million dollars. In the long run, that is not a whole lot of money to spend. However, getting the permits is another story. It is not the state that is causing the problems. It is individual communities that do not want to have these incinerators in their backyards. Now, this is despite the fact that these incinerators burn fairly cleanly.

We have one hospital I know of in the Trenton area that has been waiting two-and-a-half years for a permit from the local community in order to get an incinerator on site.

So, we would hope that the state and perhaps Congress could give some leadership in terms of looking at incineration as an exciting possibility of getting rid of this trash.

The second item that we have been looking at is actually recycling. There are companies out there now that are willing to recycle blood bags. That was always our biggest problem: How do we get rid of blood bags? If we could find a company that would take these and our other waste streams including infectious waste, perhaps this would be a good way because it would save not only on the cost of disposal, but it would also save the environment. And, certainly, we would be for that.

Once again, I would like to thank you for the opportunity to talk today. This is a summarization of my remarks. I would be willing to answer any questions that you might have.

[Statement of Mr. Becker can be found at end of hearing.]

Mr. HUGHES. Thank you, Mr. Becker. We will take all the testimony first and then we will go to questions.

Mr. DeVries, welcome.

STATEMENT OF DONALD DeVRIES, NEW JERSEY ASSOCIATION OF HEALTH CARE FACILITIES

Mr. DEVRIES. Thank you, Mr. Chairman, Mr. Saxton.

I am an executive committee member of the New Jersey Association of Health Care Facilities which currently represents some 200 long-term care facilities in the State of New Jersey.

I appreciate this opportunity to comment on the medical waste bill that you proposed. We agree that dumping of medical waste in the ocean should be banned and are pleased to support this measure. We also support the creation of a manifest system that will enable federal and state authorities to trace, identify and penalize

parties responsible for dumping syringes and needles that was up on our beaches.

As I am sure you are aware, a similar measure in New Jersey's Legislature is likely to gain approval in the Senate, today. It will create a manifest system for special medical waste and regulate the disposal of those wastes which pose the most serious risk to public health and safety. It sets up licensing requirements for transporters and generators, prescribes packaging and disposal of them and establishes a special criminal offense for dumping of this material. Most important, however, is the bill's definition of special medical waste.

We would suggest this language replace the broad medical definition in H.R. 3478. The language we propose is:

"Special medical waste" is defined as liquid and solid microbiological culture media; needles, syringes, and sharps; pathology specimens, including tissues, organs, body parts, and products of conception which are discarded after surgery, obstetrical procedures, autopsy and laboratory procedures; bulk blood, blood products, and body fluids, and any disposable substance that has been exposed thereto as may be determined by rule or regulation of the appropriate federal agency, except urine or fecal matter of at least 20 cubic centimeters in volume; waste generated from rare or unusual cases involving communicable diseases, as determined by the appropriate federal agency; and carcasses, body parts and bedding of any research animal that was intentionally exposed to a pathogen.

We believe this definition includes those items which have washed ashore and which pose the most serious public health threat. It also will establish a manifest system that will be both easier to regulate and less costly to federal agencies, such as Medicaid and Medicare, which would have to increase their subsidies to medical providers in order to cover added disposal costs.

One added item is that an extra estimate is that we are looking at approximately 42,000 beds in New Jersey of long-term care beds. Currently, they are spending between 4 and $6 million a year to dispose of their waste. Less than 5 percent of long-term care waste is this hazardous type of waste. And, yet, by classifying it all as hazardous waste, we are looking at a cost that could go in excess of $115 million a year, which is quite a large burden for the long-term health care industry in New Jersey.

Again, I thank you for the opportunity to offer our suggestions and I will be happy to answer any questions.

Mr. HUGHES. Thank you, Mr. DeVries.

Ms. Kiss?

STATEMENT OF KAREN KISS, PRESIDENT, ALLIANCE FOR A LIVING OCEAN

Ms. KISS. My name is Karen Kiss and I am President of the Alliance for a Living Ocean, a Long Beach Island based citizens group committed to ending the contamination of New Jersey's coastal waters. This testimony reflects the viewpoint of our over 2,500 direct members and the concerns of thousands more who endorse our efforts in the service organization in and around Southern Ocean County.

Our organization is the direct result of the hospital waste that washed in last summer as immobilized our community to take a hard look at ocean degradation.

I am also a registered nurse who has actively practiced nursing in a variety of health care settings for 12 out of the last 13 years. It is from these perspectives that I address the need for a strong medical waste tracking bill. First, let me commend this committee for reaching out for the input from the people who have felt the impact of this problem the greatest; i.e., the coastal community. We thank you for physically bringing the hearing to us and for making it so convenient to attend.

Although the problem of floatables has been escalating for years, Long Beach Island has the dubious distinction of being the first coastal community to have experienced such a major wash in of medical waste. Last year, the 50-mile medical slick prematurely ended our season on August 13th with business losses estimated at approximately 20 percent.

This year, despite good fortune and excellent beach conditions, business is generally off approximately 25 to 30 percent because we are plagued by reports of hospital waste and beach closings to the north and on Long Island.

The Alliance for a Living Ocean commends the efforts of Congressman Saxton and Hughes and the late Congressman Howard for recognizing the need for a federal initiative with this problem and introducing H.R. 3478 on October 13th of last year.

Last year criticism of this federal initiative revolved around medical waste tracking as being a local not a federal issue. Conversely, a lack of resolve on the state level to address this issue had, as one criticism, that it should be a federal not a state initiative. But this summer, the hospital waste washed up again. This time in Massachusetts, Connecticut, Rhode Island and New York. And to anyone who has worked in the medical field, this should come as no surprise.

Over the last 10 years we have been experiencing a solid waste crisis in many parts of this country. Landfills are filling up, tipping fees are escalating. During this time, medical care has shifted from roughly 30 to 40 percent recycling of its waste 13 years ago to almost 100 percent waste disposal today. Additionally, there is only limited regulation of medical waste disposal.

Considering the magnitude of the problem, it is not only surprising to me that major wash-ins have not occurred more frequently. Many once routinely recycled items are now routinely thrown in the garbage after one use. Bedpans, emesis basins, wash basins, soaking tubs and water pitchers are all now made of plastic and discarded.

I can be real graphic if you want. To give you some idea of what I am talking about, I reflected on my last position in the emergency room of a medium-sized private hospital. A rough estimate of what we used in the course of the year, given the patient load, revealed we disposed of over 50,000 2-foot-by-1-foot-by-six-inch bedpans, contaminated plastic material, out of the emergency room alone.

Based on 30,000 admissions to this hospital in a year's time, and referring to only the aforementioned items, this one hospital generated a conservative 122,000 cubic feet of contaminated plastics which would not have been generated seven years ago in most hospitals. This is roughly the equivalent of three 2,000 square foot

homes filled from top to bottom with this contaminated material. This is but one hospital in the course of one year.

Keep in mind that every hospital has a system on its premises to resterilize these items. It is also important to note that these items are not considered "red bag" or infectious wastes. They are merely thrown in the general trash. The distinction here is they are contaminated, but unless the person has a known infectious disease, it is not treated any differently than regular hospital waste.

In my experience in the emergency room, we are rarely aware of a patient with an infectious process requiring red bag treatment of waste. Disease processes are usually clearly defined after the patient is admitted and on the floor. Therefore, almost all of those 50,000 bedpans are going out in the general trash.

I used this illustration of the problem to encourage you to be specific in directing the EPA in setting guidelines for the proper disposal of this material. An incentive system should be built in to reduce the generation of waste and to encourage recycling whenever possible. Public health and safety will be clearly more protected if the scope is broadened to include these items.

I also strongly encourage you to clearly define the term "facility" for the EPA in this legislation to include all licensed generators of medical waste.

Our experience with this issue on the state level revealed tremendous pressure from special interest groups such as doctors, dentists, podiatrist, et cetera, to be excluded from being tracked. Our statement medical waste bill which stands poised for approval by the State Senate today still excludes podiatrists and home health care agencies. The Alliance stands firm that everyone needs to be included in the system in order to maximize public protection.

Finally, we urge swift movement and implementation of this legislation. Our economy has suffered for two years because of this problem and the reputation of the New Jersey shoreline as a resort area has been severely damaged.

More importantly, it is a public health issue affecting the entire nation due to the inadequate designation and regulation of this waste. Thank you.

Mr. HUGHES. Thank you, Ms. Kiss.

Mr. Jack Quinn with the Medical & Hazardous Waste Management Incorporated.

STATEMENT OF JACK QUINN, VICE PRESIDENT, MEDICAL & HAZARDOUS WASTE MANAGEMENT CORP.

Mr. QUINN. Thank you. Mr. Chairman and committee members, my name is Jack Quinn. I am with Medical and Hazardous Waste Management Corp. We are the largest company on the East Coast handling infectious waste. That is our specialty. We transport this material off site from the facilities to our consolidation yard where it is put into large tractor trailers and is transported out of state to large industrial incinerators made specifically for this waste.

The problem that we are all seeing is a very serious problem because there is the lack of a tracking system in our business. Our company has developed and has been using a tracking system and a manifest system for the last five years. So all of our clients that

currently use our system do have a paper trail and can track their waste from point A, which is the generator, to its final resting place, the incinerator: a cradle to grave approach.

The members that we service, which is over 700, within the New York, New Jersey, Connecticut, Pennsylvania and Delaware region have had no problem with tracking our wastes. We have had requests from hospitals and doctors to check—they have called us up to check as to where their waste has gone and we are able to produce all the paperwork that is necessary. So, a tracking system and a manifest system should be mandated throughout the country. There is no two-ways about it. And the sooner it is implemented, the less likelihood of this type of waste flowing in on the beaches.

As we have stated before, we are in full compliance and will support this bill totally. We are looking for as stringent a penalty as you can provide for illegal dumping. There is a very sincere need for a strict enforcement. If you pass legislation, you have to provide the dollars that go along with it so that the states can enforce the cleaning up and the follow up of this manifest system. Without the enforcement, you are going to have major problems. And we see it now because we have new people coming into this business everyday because they think it is a fast dollar. They are going to turn it over. They think they can charge the hospitals and doctors an exorbitant amount of money and what happens to this waste? I do not know where the waste is going and neither does the EPA or the DEP or the DEC.

I can tell you where ower waste goes because I can track it. We are the largest company, and we have the most capacity at the incinerators tied up. Where these new people are going with this waste, no one knows.

As far as the EPA, the EPA should draft guidelines and regulations so that they would establish a minimum that all states would follow it as a minimum program and build on this program and included in that EPA program should be a manifest system and a tracking system.

Thank you very much.

[Statement of Mr. Quinn can be found at end of hearing.]

Mr. HUGHES. Thank you, Mr. Quinn.

Dr. Abel who is President of the New Jersey Marine Sciences Consortium. Dr. Abel, welcome.

STATEMENT OF ROBERT ABEL, PRESIDENT, NEW JERSEY MARINE SCIENCES CONSORTIUM

Mr. ABEL. Mr. Chairman, I am Dr. Robert Abel, President of the New Jersey Marine Sciences Consortium, an alliance of twenty-nine colleges and universities in the New Jersey, New York and Pennsylvania area. We are devoted to marine research, education and public service of all kinds. I would like first of all to express my appreciation for your invitation to appear before you this morning on H.R. 3478 and to comment on the sensitive issue of dumping medical waste.

However, at the same time, I think I need to offer a note of personal gratitude, enormous respect and admiration, and congratula-

tions to this subcommittee, which in a few months will commemorate its 30th year of existence. And, gentlemen, over three decades, you have done great!

It is not easy to compress 41 years of activity in oceanography and 10 years in particular of making observations in this area here, into seven minutes. Accordingly, I have composed a comprehensive treatment of these issues which I would like to deposit for the record and with your permission will just touch the highlights, Mr. Chairman. Thank you.

I would like to note for the record, however, that as far as I know I am the only still active member of the first oceanographic survey in these waters, i.e., in the New York Bight. That will be 40 years ago next month. (And do not worry, sir, I am feeling fine.)

The fact is—the water is getting cleaner. The efforts of the state and federal agencies in this direction are starting to pay off. Part of the overall problem is admittedly one of perception, because the public does not believe much of this. That, of course, does not simplify the job of the EPA or the Commissioner of Environmental Protection of the State of New Jersey. Incidentally, I think New Jersey has just lost the best Commissioner of Environmental Protection in the United States.

Unfortunately, that is the good news. The other half of the story is that our near shore waters and coast and estuaries are still under considerable stress. They are suffering as are, of course, the tourists, recreationalists and vendors who have to close down, every time the beaches close down and we all know what happens then.

My written testimony covers about a dozen anecdotes of phenomena or observations which are of doleful nature, none of which, however, are insurmountable, but it will cost money.

In general: a couple of observations. First of all, Monmouth and Ocean Counties are clearly the most afflicted by these problems; i.e. these floatables, mainly because they seem to be coming from the New York Bight area, the Hudson-Raritan Estuary. Second, these problems really ought to be attacked at the source, if you can find it.

Third, when you find the sources, if they are industrial, they are, of course, amenable to regulation. If they are municipal, however, the problem is tougher because as you said earlier, sir, the enemy is us. People just do not feel as personally responsible as they want industry to feel.

Now, as to the bill, I am for it. I am for anything that will help to contribute to cleaner waters and shore. Candor requires the observation, however, that, first, while your legislation is excellent and needed, these problems can only be licked (as several people have said before me) by cooperation between the state and federal governments.

Secondly, while the medical waste is clearly obnoxious, it is, after all, merely one component of the pollution problem of floatables, and that in turn is merely one component of the overall pollution problem, itself.

In fact, the National Oceanic and Atmospheric Administration, NOAH, took some surveys several years ago, during which time, "floatables" went from nowhere to rank third in public perception

of evil. That, of course, is because they are very, very much perceived.

By the same reasoning, floatables, more than any other component of environment degradation are subject to the laws of physics. I refer to wind, currents and tides, i.e. the whim of nature. And, Mr. Chairman, I could not agree with you more: Our aggregate effort to track, to understand where the stuff is coming from—is puny. Almost everyone who has appeared here before me this morning has said the same thing, and I have to agree.

Last year, the consortium with its member institutions participated prominently in the New Jersey Department of Health survey of these waters. The project was initiated mainly in reaction to the physicians' outcry known as "Save our Shores." This year, for reasons that are frankly not clear to me, the Department has eschewed the oceanography. We are now negotiating with the Department of Environmental Protection, hopefully, to do some of this vital work.

Had our plan been accepted, we would have been making these sensitive observations since spring precisely in the areas of the greatest complaint.

In order to negate the obvious suspicion of self-service, I offered to contribute to the Department of Health a list of the most prominent, i.e. the best in-state or out-of-state contractors, to do this crucial work. Yet, today, in a year that is characterized by really crazy oceanographic and atmospheric conditions, we are still very much in the dark as to what is going on out there.

The consortium wants to help. Earlier this year, we organized a broad spectrum committee and submitted to the state a report on the water quality of the Hudson-Raritan Estuary. Owing to the way we organized it, it was clearly the broadest consensus respecting water quality ever issued in this part of the country. The committee was chaired by Dr. Carlos Guerra of Public Service Electric & Gas, and sponsored by the consortium. And with your permission, sir, I would like to submit a summary of that report for the record.

Mr. HUGHES. That shall be received.

[The material was placed in the hearing record files of the subcommittee.]

Mr. ABEL. Thank you, sir.

Our next effort in this same series will concern the Atlantic Coast. That is right here. This committee is chaired by Dr. Robert Tucker, the outstanding director of New Jersey's DEP's Office of Science & Research. We want to do just as good a job on that.

Returning, now to the surveys I was discussing, there is always a problem, always a worry about how long it takes to get these projects underway, from the time of conception through the appropriations process, to the final actions of the bureaucracy. This is, after all, necessary under the law.

Accordingly, I have offered nothing more than a gentleman's agreement, on to put the consortium's vessels in the water fully equipped, staffed with the necessary scientists in a matter of hours or at the most, days. We have been given a headstart in this direction by an excellent grant from the Victoria Foundation under which we have already purchased all the necessary equipment.

And with regard to Mr. Florio's suggestion of a national program on a cradle-to-grave operation, our scientists next want to carry out a relatively ambitious project to model the near shore waters from Cape May all the way up to Fort Hancock, that is to Sandy Hook, so that when something like this happens, we can put the nickel in the computer and find out where the stuff came from.

Gentlemen, the consortium desperately wants to help in this serious matter and I am most grateful to your committee for permitting me to get on the record today. Thank you.

[Statement of Mr. Abel can be found at end of hearing.]

Mr. HUGHES. Thank you, Dr. Abel.

I do not have any questions of the panel. I just want to say to you, Dr. Abel, we appreciate the great work that you do at the Marine Sciences Consortium. We are just delighted to have one of major facilities in Cape May County, not very far from my home. We are proud of the work that you do, not just in New Jersey, but nationally.

I also want to congratulate you, Mr. Becker and Mr. DeVries, for your testimony. I think you have taken a responsible position—we all do not want to burden the industry with more regulation than is necessary. We are already regulated very stringently in many areas, but I think you recognize that we do have a serious problem. And if I hear you correctly, what you are saying basically is it has to be done with some degree of balance making sure that it is necessary and cost effective. I quite agree with that.

Ms. Kiss, congratulations to you and the Alliance for a Living Ocean, for your fine work. Not just on the medical waste issues, but on ocean dumping generally and trying to develop good rational ocean policy. I have enjoyed working with your organization over the years.

Mr. Quinn, obviously, you are a good corporate citizen. Your statement was very succinct and even though you are going to be part of the regulated, you are already doing it and, frankly, you recognize the need and support the legislation and I appreciate that.

Thank you one and all.

Dr. Abel, you have talked about 30 years of this committee's work and I am privileged just to temporarily chair this. Both Jim Saxton and I are members of this distinguished subcommittee on oceanography. Mike Lowry of Washington State is the Chairman. He could not be with us, today. He is very actively involved in a statewide campaign. He is running for United States Senate in Washington State, but he very kindly permitted me to temporarily chair this and permit the subcommittee to come here today. The staff worked very hard in preparing for this meeting today, as did Jim Saxton's staff. I appreciate their work and I will communicate to Mr. Lowry your thanks for the work of the subcommittee. Thank you.

Mr. Saxton?

Mr. SAXTON. Thank you, Mr. Chairman. I would just like to pursue one point with this panel if I may. Let me just say that one of the most important things that we are going to have to do in terms of the decision making process is to decide how to define just what waste should come under a manifest system or perhaps we

will decide to let the EPA make that decision, although I do not feel quite as comfortable with that.

I think there is a point, a very basic point that several speakers have made today. And that is how broadly we should define infectious waste for the purposes of this project, for the purposes of this bill, for the purposes of manifesting. Should it be a broad definition or should it be something that is defined as something that is strictly infectious? And I suppose the reason for that is, as the newspaper article pointed out, that we do not always have full confidence that infectious waste within the hospital gets into the trash can or the vessel that it is supposed to. And I would just like to ask you to respond to that very basic question: Do we need to be concerned? I am glad Karen Kiss is here because I suspect that she may be able to shed some light on this from a very practical point of view. Do we need to be concerned about that and what are the practical ramifications of us supposing that everything that we have to worry about has been put into the proper vessel?

Mr. BECKER. In New Jersey, we have fairly stringent regulations on the books defining what is infectious waste. And that infectious waste is supposed to be segregated. There have been problems in the past of having this segregation and which we recognize.

The problem is that you have a human factor here always. You are always going to have a human factor. So, there certainly will be times when infectious waste at least in the past could find its way into the general waste stream.

We are fairly confident now primarily because of the publicity nature of this thing. And that has probably been the best help to our industry in making people aware that they should be extra careful about keeping the isolation, particularly the isolation waste, separated so that it is not finding its way into the waste stream. In fact, we are finding that there was one hospital in North Jersey that had its trash sent back to it and dumped into its parking lot. So, that is a fairly good way of insuring that a hospital is going to make sure that its people keep these waste streams separated.

Again, what I would go back to, though, is that what would obviate the need for this whole thing would be incineration. If we could go to incineration, the waste would not even have to leave our doors. It would not even have to go out the back door or any door. It could just stay right in the facility. But, again, the problem is getting those EPA permits.

I think our hospitals are doing a lot better job than they used to. Again, particularly because of this. One-third of our membership is already incinerating. So, as these numbers go up, I think that you will find that it will not be as necessary.

Ms. KISS. From a practical standpoint of working in an emergency room, you really do not know what a patient has when they walk in the door. I understand exactly the problem here. You can—it is very difficult and we are generating such a tremendous volume of hospital waste, it is just staggering. But I think that if you talked to any of the nurses like I have, you know, not just going on my own opinion, but talking to other people, we throw away bedpans and basins. This is very, very large material. I mean it is wasteful. And every system that was done for years where you

recycled the waste. You put it on some kind of tray. It went back to central supply. It was cleaned, sterilized and sent back on the floor.

There is really—I mean I agree there is some need as far as incineration goes, as far as your syringes and so forth and so on, but where we can reduce, we should reduce. There is no need to throw this stuff out. And I do not see any emphasis here today on actually looking at reduction within the hospital. There seems to be a lot of profit in using it and throwing it away. I think we need to look at that very seriously. I think we can reduce a tremendous amount of the hospital waste stream.

Mr. DEVRIES. I can speak for the long-term care industry. There are currently over 300 facilities in the State of New Jersey. Because of the small amount of infectious material that nursing homes are dealing with, they utilize licensed contractors who pick it up and haul it away. I know many of the facilities in the state are beginning to use Medical Waste Management Company, as well as three or four others that are out there.

Our biggest issue has been dealing with syringes. A typical 100-bed nursing home disposes of two boxes of syringes a month. Through practices, in-service training and constant inspections by the State Department of Health, local Department of Health and by the new Manual of Standards which was just approved by the State of New Jersey in June of this year which regulates and defines infectious medical waste, the nursing home industry has been very conscious in doing their best to prevent infectious material from leaving the facilities.

I think, along with the Hospital Association, that the negative public image of medical waste has made us very much aware of our nursing practices. We have been under public pressure for many years and are doing our best. And I think we could comply very easily with the specific defined regulations. Thank you.

Mr. QUINN. I agree with you. I would not let the EPA decide as to what is going to be regulated. I would try to put into the regulations exactly what it is going to be. Either you take the CDC guidelines or the EPA existing guidelines or the state regulations. The problem is, as you go from state to state to state and from hospital to hospital what are infectious waste charges? And you do not have a standard.

I can go to a hospital in New Jersey, a couple of miles from here, and half the hospital is red. I can go to a hospital up the road in another county and only the ER, only the OR, only the renal dialysis centers and the chemotherapy waste is red. That is it. All the rest of the hospital waste goes into the landfill. That is the problem. There is no standard. Once a standard is established, all this problem of dumping into the landfills and there should be no dumping in the ocean at all, but that should stop. And with a tracking system and a manifest system, it will.

The other problem is I know the hospitals like to do their own incineration within their own area. The problem is you are going to have less enforcement in the air quality division going around checking these incinerators that are in the hospitals than you would if you went to a regionalized incineration set-up similar to what you are trying to do now with your solid waste. And if you set up a regionalized incineration program, that would be an incinera-

tor in one of three counties, you could solve all your problems within the state. The problem is nobody wants it in their backyard.

I have tried to site incinerators in this state. I can get the state permit with no problem. It is the county level that has the problem. And, hopefully, with this new bill that is coming out, S. 2343 and A. 2853 it takes it out of the solid waste in the county division, we will continue to try and get an incinerator in the state. Thank you.

Mr. ABEL. If I might offer a couple of observations. First of all, a highlighted recommendation in our water quality report is that, first, the State of New Jersey, and then the entire country has got to become a recycling society. There is no alternative.

Secondly, we have got to conduct more research into utilization. Some industrial research plants in both your constituencies are working now on some really amazing products, one of which is 20 percent ash, and 80 percent waste glass that emerges as a product with the appearance of marble which has all of the qualities usable for construction, such as bricks. That is a process for the future.

A third alternative which has been suggested today is incineration. I am for at-sea incineration. Because it is such a violent and sensitive issue, however, in a few months, the American Littoral Society and the Consortium hope to co-sponsor an open forum on this problem. The objective is to let the American public, particularly in this state understand what is involved in ocean incineration.

Finally, with regard to process, you may assign the decision making responsibility to EPA; I can tell you what they have done, for instance, in the case of dredge spoil relocation. They simply handed the problem to their Scientific Advisory Board, which derived the criteria under which the dredged spoil would be judged hazardous, marginal or clean. Thank you.

Mr. SAXTON. Thank you very much. And let me just say that I guess about three-and-a-half hours ago we started this process and it has been very, very valuable and we thank you for the part that you have played in it. One of the things that we have to do as legislators in helping to formulate policy is to make sure that the policy we formulate is reasonable and works. And you have been a great deal of help in pointing out both the good things and some things that perhaps ought to be changed about our bill. Thank you very much.

Mr. HUGHES. I just would like to say to the industry that if the cross of disposal of infectious waste continues to increase, and I understand that it is about $2,000 a ton now, it is going to force recycling, is it not? It is going to force recycling and other alternatives because it is going to be too expensive.

We throw a lot of things away because, today, we build things to throw them away. There was a time, I think as Ms. Kiss said, when we reused items. Today, we make them because they are disposable. Our whole society is based upon the disposable syndrome: it is cheap. We do not reuse anything.

Mr. QUINN. One thing I would like to point out is that it is not as expensive as you think to get rid of this waste. The hospital's figures are their figures. Mine are a little different. It depends on the

individual who is handling your waste? I can negotiate with our incinerators on a volume basis so I get a reduction in my costs.

Mr. HUGHES. In volume?

Mr. QUINN. On volume. I am the only one in the industry that has passed on a cost reduction to the hospitals in our associations. The only one. So, it can be done and they can save money through cost bidding and also cost reductions with the right company.

Mr. HUGHES. Well, in any event, I think that the audience in response to the question, is where the American public is generally on waste management. They want to see us do a much better job of resource recovery and recycling and reviewing ways that we can reduce the amount of hazardous and other waste being generated. And I think that the American public is way ahead of those in the regulatory field or those in government in that regard.

Ms. Kiss, did you want to say something?

Ms. KISS. I just want to say one thing that, again, to re-emphasize. There are definite needs for disposable material within the hospital community, however, a great deal of it can be and should be recycled and should not be thrown away. And infectious material can be sterilized and reused and reused. It has for a very long time, it has been done that way and it should be done again.

Mr. HUGHES. Thank you. Well, you have been a good panel. We appreciate your contributions to today's hearing record. That completes the testimony for today. You have been a very patient audience and we appreciate that. Again, we want to thank the church for permitting us to use the church hall, today, and the staffs for helping us prepare for today's hearing.

No further business before the subcommittee, the subcommittee stands adjourned.

[Whereupon, at 1:30 p.m., the subcommittee was adjourned subject to the call of the chair.]

[The following was submitted for the record:]

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U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, DC 20515-6230

August 3, 1988

BACKGROUND MEMORANDUM

TO: Members, Committee on Merchant Marine and Fisheries

FROM: Staff, Subcommittee on Oceanography

RE: H.R. 3478, Medical Waste Regulation

On August 8, at 10 a.m., in Surf City, New Jersey, the Oceanography Subcommittee will convene to hear testimony on H.R. 3478, a bill regulating medical waste. Witnesses are expected to include the Administration, state and local officials, and local environmental groups.

BACKGROUND

During the last two summers, our Nation's shores, especially the Northeastern coast of the U.S., have been littered with garbage, dead marine life, and medical waste washing ashore. During July of this year, two waves of medical debris closed three New York beaches during the height of the tourist season, while New Jersey witnessed a 50-mile long slick of garbage including medical waste on its shores last summer. Massachusetts, Rhode Island, and Texas have also witnessed medical debris on their beaches. The waste has included blood bags, used syringes, sutures, soiled bandages, medical vials and other potentially harmful items. Some of the blood vials were contaminated with the persistent hepatitis-B virus and others tested positive for AIDs.

The source of this waste is unknown, although authorities believe that it may have been illegally disposed of by area clinics. Other theories include increased disposal of used needles by drug addicts in sewer systems, causing needles to wash out to sea during periods of heavy rain.

Although frightening in appearance, the medical risks associated with these wastes are fairly low, according to medical experts. Beachgoers would need to be punctured by a tainted needle or a broken glass blood vial, and even then the chance of contracting hepatitis or AIDs is very slim. It would be virtually impossible to become infected from contact with tainted blood in the open

ocean water, as the viruses would be extremely diluted and almost certainly die from contact with salt, sun and other harsh conditions. However, the public perception of dangers from the waste, as well as other pollution incidents along the Mid-Atlantic coasts, have wreaked economic havoc on coastal communities, with a severe decrease in a multimillion dollar tourist industry.

FEDERAL EFFORTS

The Environmental Protection Agency does not regulate medical waste under its statutes, although arguably it could be regulated under the Resource Conservation and Recovery Act (the Solid Waste Disposal Act, or RCRA). RCRA regulates solid waste, which is defined to include all solids, liquid, semisolid or contained gaseous material which is discarded or otherwise served its intended purpose. Excluded from this definition are sewage wastes. EPA has placed few restrictions on nonhazardous solid waste, but has authored over 450 pages of regulations to govern hazardous solid waste under Subtitle C of the Act.

Hazardous waste is defined as any solid waste which, because of its quantity, concentration, or physical, chemical or "infectious" qualities, causes an increase in mortality, an increase in serious irreversible or incapacitating illness, or poses a substantial hazard to human health or the environment when improperly treated, stored, transported or disposed of. EPA only regulates listed hazardous wastes, although states may develop their own more stringent or compatible hazardous waste management program which operates in lieu of the EPA program. Only New Jersey currently has an EPA-approved RCRA hazardous waste management program.

Although "infectious" wastes appear to be regulatable under Subtitle C of RCRA, medical wastes are not listed as hazardous wastes and therefore are not currently regulated by EPA. EPA reports that it is examining its options under the Act, and notes that it issued nonbinding guidance on "infectious" wastes last year.

If a hazardous waste is regulated under RCRA, extensive requirements are imposed on generators, transporters, and disposers of the waste. The most important of these requirements are:

- a manifest system to track the waste from generation to disposal, with amount, type, destination of waste and other vital information listed;
- extensive recordkeeping requirements;
- disposal of wastes only in Federal or state permitted facilities;
- limited on-site storage, with proper labeling and storage facilities;

- performance standards for disposers;
- extensive inspection requirements; and
- financial responsibility.

Penalties for RCRA violations range from civil penalties of $25,000/day to criminal penalties of $50,000/day plus imprisonment for up to five years. If a person knowingly endangers another person under the Act, penalties of up to $1 million (for corporations and other organizations) are authorized.

STATE EFFORTS

As stated above, medical waste is not now regulated under Federal law. Individual states may regulate wastes under their licensing authority over hospitals and clinics. Generally, wastes generated by hospitals are separated into infectious (needles, blood vials, body parts) and noninfectious (empty pill bottles, intravenous tubing, cafeteria refuse) wastes. The infectious waste is placed in special red bags where it is generally incinerated. Costs of incineration may range from $150,000-$300,000 per year. Noninfectious wastes can be disposed of in landfills or may also be incinerated, but at much lower cost.

While New York City requires incineration of all wastes generated by hospitals, final Statewide regulations requiring a tracking system and tougher penalties have yet to be promulgated despite a State bill ordering the regulations by April 1 of this year. Connecticut allows the disposal of hospital wastes in landfills, although most hospitals incinerate their waste. In New Jersey, no uniform requirement for disposal of hospital waste is apparent, although most hospitals use incinerators or contract with private haulers to dispose of the material. The State does require incineration of surgically-removed tissue, but allows disposal of soiled bandages, IV tubes and pill bottles in landfills, if double bagged.

A recent New York Times newspaper article has criticized these programs as ineffective, citing too lenient sanctions against violators; differing definitions of red-bag wastes; state officials disagreeing over health risks posed by waste; high cost of infectious waste disposal; and poor separation of hazardous and nonhazardous wastes by hospitals.

The economic incentives for cheating appear to be the primary cause of illegal waste disposal -- the New York sanitation department charges $65/ton for incineration of noninfectious wastes, but $2000/ton for red-bag waste. There is only a single incinerator in New York State licensed to handle red-bag wastes, and it can handle only 25 tons a day. Also, under Federal law, hazardous waste may not be stored in state landfills, creating an incentive for a state to avoid labeling medical waste as hazardous.

The medical wastes washing ashore have been difficult to track to a particular source, although a New Jersey medical laboratory was charged July 28 with illegally dumping 2000 vials of blood, some contaminated with AIDs and hepatitis, in a wooded lot in Woodbridge. Penalties of $50,000 were assessed, but New Jersey officials expressed some frustration over a lack of criminal sanctions. No other enforcement actions have been brought under either State or Federal law, and the mystery continues.

H.R. 3478

Introduced by Congressmen Saxton, Hughes and former Congressman Howard, the bill amends existing law to ensure that both infectious and noninfectious medical waste, which is defined to include all solid waste generated by medical or veterinary facilities, is more closely regulated. The bill:

- o amends the Marine Protection, Research, and Sanctuaries Act and the Clean Water Act to ban the dumping or other disposal of medical wastes in navigable waters or the ocean;
- o doubles the maximum penalties which can be assessed against an illegal medical waste dumper to $100,000;
- o directs EPA to regulate nonhazardous medical waste under RCRA to protect human health and the environment, with a $25,000 penalty for a violation of the new program; and
- o preserves more stringent state and local requirements governing medical waste.

ISSUES

1. What has been the source of the medical waste washing ashore on the New Jersey and New York coasts?
2. Is the waste hazardous to human health or the environment?
3. Is the current Federal regime regarding management of medical waste sufficient to protect human health and the environment?
4. What are states doing to prevent the disposal of medical wastes in the ocean?
5. Is a national waste tracking program needed, or is this a local phenomenon only?

I

100TH CONGRESS
1ST SESSION

H. R. 3478

To amend the Marine Protection, Research, and Sanctuaries Act of 1972 and the Federal Water Pollution Control Act of 1977 to ban the dumping of medical waste in ocean and navigable waters and to amend the Solid Waste Disposal Act to authorize the Environmental Protection Agency to regulate medical waste to protect public health and the environment.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 13, 1987

Mr. SAXTON (for himself, Mr. HUGHES, and Mr. HOWARD) introduced the following bill; which was referred jointly to the Committees on Merchant Marine and Fisheries, Energy and Commerce, and Public Works and Transportation

---

A BILL

To amend the Marine Protection, Research, and Sanctuaries Act of 1972 and the Federal Water Pollution Control Act of 1977 to ban the dumping of medical waste in ocean and navigable waters and to amend the Solid Waste Disposal Act to authorize the Environmental Protection Agency to regulate medical waste to protect public health and the environment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DUMPING OF MEDICAL WASTE IN OCEAN WATERS.

(a) DEFINITION OF "MATERIAL".—Section 3(c) of the Marine Protection, Research, and Sanctuaries Act of 1972

(33 U.S.C. 1402(c)) is amended by adding the following at the end thereof: "Such term includes any solid waste generated by a facility providing health care services, including veterinary services.".

(b) PENALTIES FOR MEDICAL WASTE VIOLATIONS.—Section 105(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415(b)) is amended by adding at the end thereof: "If any such violation involves medical waste, in lieu of $50,000 the maximum fine under this subsection shall be $100,000.".

SEC. 2. DUMPING OF MEDICAL WASTE IN NAVIGABLE WATERS.

(a) TO CLARIFY THE DEFINITION OF POLLUTANT.—Section 502(6) of the Federal Water Pollution Control Act of 1977 (33 U.S.C. 1362(6)) is amended by adding the following at the end thereof: "The term includes any solid waste generated by a facility providing health care services, including veterinary services.".

(b) PENALTIES FOR MEDICAL WASTE VIOLATIONS.—Section 309(c) of the Federal Water Pollution Control Act of 1977 (33 U.S.C. 1319(c)) is amended by adding the following at the end thereof: "If any such violation involves medical waste, in lieu of $25,000 or $50,000, as the case may be, the maximum fine under this subsection shall be $100,000.".

SEC. 3. EPA REGULATION OF MEDICAL WASTE.

(a) AUTHORITY.—The Solid Waste Disposal Act (42 U.S.C. 6901–6991i) is amended by adding the following new section at the end of subtitle G:

"SEC. 7011. NONHAZARDOUS MEDICAL WASTE.

"(a) REGULATIONS.—After notice and opportunity for public hearing, but not later than 1 year after the enactment of this Act, the Administrator shall promulgate such regulations regarding the generation, transportation, treatment, storage and disposal of medical waste as may be necessary to protect human health and the environment. The regulations shall require that medical waste be tracked from the point of generation to the point of disposal. Such regulations shall not apply to any medical waste which is identified or listed under section 3001 and regulated under subtitle C (relating to hazardous waste).

"(b) INSPECTIONS.—For purposes of enforcing the provisions of this section, any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled medical waste shall, upon request of any officer, employee or representative of the Environmental Protection Agency, duly designated by the Administrator furnish information relating to such waste and permit such person at all reasonable times to have access to, and to copy, all records relating to such waste. For the purposes of enforcing the pro-

visions of this section, such officers, employees or representatives are authorized—

"(1) to enter at reasonable times any establishment or other place where medical wastes are or have been generated, stored, treated, disposed of, or transported from; and

"(2) to inspect and obtain samples from any person of any such wastes and samples of any containers or labeling for such wastes.

Each such inspection shall be commenced and completed with reasonable promptness. If the officer, employee or representative obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the sample obtained and if requested a portion of each such sample equal in volume or weight to the portion retained. If any analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

"(c) PENALTIES.—Any person who violates any regulation promulgated under subsection (a) or any request of the Administrator under subsection (b) shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation.

"(d) EFFECT ON STATE AND LOCAL LAW.—Nothing in this section shall be construed to prohibit any State or politi-

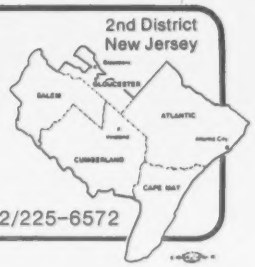
cal subdivision of a State from imposing or enforcing any requirements regarding medical waste which are more stringent than the requirements established by the Administrator under this section.

"(e) DEFINITION.—As used in this section, the term 'medical waste' means any solid waste generated by a facility providing health care services, including veterinary services."

(b) CLERICAL AMENDMENT.—The table of contents contained in section 1001 of the Solid Waste Disposal Act is amended by adding the following new item after the item relating to section 7010:

"Sec. 7011. Nonhazardous medical waste.".

NEWS
CONGRESSMAN
BILL
HUGHES
341 Cannon House Office Building • Washington, D.C. 20515 • 202/225-6572



CONTACT: Marci Bortman August 8, 1988

HUGHES SEEKS PASSAGE OF MEDICAL WASTE TRACKING BILL

SURF CITY, N.J. ---Congressman Bill Hughes (D-NJ) today called for the enactment of legislation which would require the U.S. Environmental Protection Agency to develop a comprehensive national system for tracking medical wastes.

Hughes said the legislation is needed to improve the handling and disposal of medical wastes, and to help prevent them from being illegally dumped in the ocean or on land.

"Over the last two summers there have been a number of reports of hospital wastes washing ashore along the east coast," Hughes told a field hearing of the House Subcommittee on Oceanography. "There is absolutely no excuse for this to happen. It's clear that the medical industry and government have to do a much better job of developing regulations to track medical wastes and keep these incidents from recurring."

Hughes said the legislation which he and Rep. Jim Saxton (R-NJ) are sponsoring directs the EPA to promulgate regulations for the generation, transportation, treatment, storage and disposal of medical waste, so that the debris can be identified and tracked from cradle to grave. Their bill also increases the fines under the Clean Water Act and the Ocean Dumping Act.

The Congressman said the need for the record keeping system is obvious. Neither the EPA nor any State or federal law enforecement agencies have been able to identify the source of the medical wastes which washed ashore in New York and New Jersey or how they made their way into the ocean.

"I'm in favor of throwing the medical waste dumpers in jail, as my criminal penalties bill would allow," Hughes said. "But we can't throw them in jail unless we have a record-keeping process in place which enables us to identify and assembly the evidence necessary to convict those who are responsible for the dumping."

The Congressman was referring to a separate bill he has introduced which would make it a federal criminal offense to dump medical wastes in the ocean or other waters---subject to fines of up to $250,000 and up to five years imprisonment.

Hughes pointed out that some 25 percent of the estimated 150 million pounds of waste produced each year by hospitals is considered infectious. So-called "red bag" waste--which contains infectious material--is much more expensive to dispose of than ordinary waste material.

"While hospitals might pay city sanitation departments $50 or $60 a ton for disposal of non-red bag waste, private incineration companies charge up to $2,000 a ton for red bag waste disposal," he said. "It's no wonder there is no scarcity of persons willing to dump these wastes anywhere and everywhere, in order to avoid the cost of proper disposal or to reap the profits of improper disposal procedures. Of course these profits come at the expense of everyone who lives, visits or works at the shore."

Hughes said he is hopeful that both the medical waste tracking bill and the criminal penalties bill will be enacted into law this year.

# # # # # # # # # # # #

Frank
Lautenberg
United States Senator
for New Jersey

For Immediate Release
Monday, August 8, 1988

For Further Information
Steven Schlein 202-224-5885
Jim Abbott 202-224-9708

Lautenberg Renews Call For Med Waste Tracking System

LONG BEACH ISLAND, NJ -- Sen. Frank R. Lautenberg (D-N.J.) today told a House subcommittee that his bill requiring EPA to create a medical waste tracking system would alleviate some of the pollution problems that have plagued the Jersey shore this summer.

Lautenberg, chairman of the Senate environmental oversight subcommittee, testifed before a field hearing of the House Subcommittee on Oceanography. The hearing was chaired by Rep. Bill Hughes (D-N.J.) and Rep. Jim Saxton (R-N.J.)

Legislation sponsored by Lautenberg requiring EPA to establish a medical waste tracking system in New York, New Jersey and Connecticut was approved by the Senate last Wednesday. Similar legislation, introduced by Rep. Jim Florio (D-N.J.) is awaiting action in the House.

Lautenberg told the subcommittee:

"The medical wastes appear to be the work of illegal dumpers. These dumpers threaten the well being of their fellow citizens to save a few dollars in disposal costs. It is clear from recent events that more needs to be done to prevent this illegal disposal.

"Our oceans and beaches are precious resources. They provide aesthetic, recreational and economic opportunities for our citizens and habitat for wildlife resources. EPA has failed to protect them. We must not. We must protect them, for this and for future generations."

-30-

Statement of Hon. James J. Florio, a U.S. Representative from New Jersey

Remarks prepared for delivery at House hearing on ocean pollution

Surf City, N.J.
August 8, 1988

We are here to talk about ways to stem a grotesque tide. Hypodermic needles, vials of contaminated blood, dead laboratory rats, have turned a day at the beach into a nightmare.

Medical waste certainly is a disaster. But the problem goes much deeper. New Jersey certainly is suffering, but the problem goes much wider. Sludge, industrial acids, the refuse of an uncaring generation have made our ocean the world's largest septic tank.

Almost everyone who grew up in this area has pleasant memories of carefree days at the beach. We didn't worry about a thing. But I have a three-month old grandson, and now I wonder if he will ever get the chance to enjoy the beach the way we have.

The other day I was on a radio show. A woman called in and said she'd had enough -- her family would take its seashore vacation this year in North Carolina. But I'm here to tell you that if we as a nation don't get our act together, there will be no place to run, nowhere to go to find water that is clear and clean and offers fun instead of fear.

Like the woman who called the radio station, our oceans have had enough. If water could talk, it would tell us how ungrateful and arrogant we've been as trustees of one of the world's greatest resources.
The time is past for quick fixes. It's too late to put off decisions we knew were right years ago and we still wouldn't make. As a bumper sticker I saw the other day says, "Nature bats last." Friends, it's now or never.

We need a commitment to saving our oceans that encompasses all the problems. Five points cry out for attention.

One, we must have a nationwide system for safely getting rid of medical and infectious waste. And a cradle to grave system for keeping close track of such waste from the moment it is created to the time it is made harmless. At every step, someone must sign a piece of paper that says the waste went where

it was supposed to. They will know that if they lie, they could go to jail. And we will know, if medical waste does wash ashore, where it came from.

Two, we must end the dumping of sewage sludge. Eight million tons a year choke the ocean off New Jersey, carried out there legally by boats who make their rounds every day and every night. They're out there right now. I know there is legislation before Congress that would end dumping by 1992. But that's not soon enough. The federal Environmental Protection Agency must stop giving in to the weak excuses of dumpers and say: no more waivers no more permits.

Three, before the 21st Century is upon us we must devote ourselves to building and paying for state-of-the-art sewage treatment systems. Even the best intentioned cities and towns can't make the ocean safe if they rely on rickety, tumbledown plants built under old-fashioned technology to handle the simpler needs of a smaller population.

Four, stop the dumping of industrial acids. I commend Mister Hughes for his efforts to get the duPont people to see the light of day. But others still use our ocean as though it were their personal disposal tank.

Five, let's look to the future and do all we can to develop new methods for treating sludge and other wastes to make them nontoxic. A few months ago I sat at a hearing in Hoboken and listened as a parade of scientists and entrepreneurs lamented the federal government's lack of encouragement. We must start the research and development that offer an ear and a market for new ideas that work.

Some of this will cost money. More money than it would have cost if we hadn't waited so long. To those who say we can't afford it, I say the cost of doing nothing is, in the long run, far, far higher than the cost of doing what's right. A sewage treatment plant might cost millions of dollars. But what is the price for bringing back an ocean?

Still, as the Woodbridge News Tribune correctly pointed out in a recent editorial on saving our environment, "More important than money is resolve." Resolve has been in short supply in the past eight years. This is an environmental question, but it is inescapably a political question too. We're going to hear a lot about these issues in this election year, as well we should. And I will make the bold prediction that not a single candidate will come down and favor ocean pollution. But I hope people who are sick of dirty water and unhealthy air will stop and think.

Under the prevailing philosophy in Washington for the past eight years we have had an approach to environmental problems that could best be described as pathetically passive. We should have known we were in trouble as soon as the President told us most pollution came from trees.

We've seen the Vice President touch down on the Jersey shore and join the chorus of complaint. I can only wonder, when the President vetoed the Clean Water Act, which had money in it to upgrade sewage treatment, where was George? Truly, we are coming to the end of what has been a lost decade for the environment. We've lost initiative. We've lost time. We've passed tough laws, only to get excuses from the people in charge of carrying them out. We've had to grab the federal government by the collar and shake it. Well, the American people have run out of patience.

They deserve better and they know it.

We can do better, and we know it.

Let's not let the Summer of 88 go down as the time when there were more dead laboratory rats than people on the beach. Let's make sure the Summer of 88 is remembered years from now as the time we finally woke up and did what we had to do to save our oceans from extinction, and save ourselves from shame.

# # #

Congressman Florio is Chairman of the House Subcommittee on Commerce, Consumer protection, and Competitiveness. He is the sponsor of legislation in the House that would set up a pilot program in New York and New Jersey for the tracking of medical waste.

STATEMENT OF THE
HONORABLE MARGE ROUKEMA
BEFORE THE SUBCOMMITTEE ON OCEANOGRAPHY
MONDAY, AUGUST 8, 1988
REGARDING H.R. 3478
SURF CITY, NEW JERSEY

Before I begin my remarks I would like to commend the Chairman of the Subcommittee, Mr. Lowry, for holding this field hearing in New Jersey. The Chairman has given his undivided attention to the problems of our state, and I deeply appreciate this commitment. I must also congratulate my colleagues from New Jersey, Mr. Saxton and Mr. Hughes, who have led our Delegation in the fight against efforts to treat our ocean as a cesspool.

When I came before the Subcommittee in February, I said that we must put an end to sludge dumping at the Federally-designated site 106 miles off the New Jersey coast. Today, I must tell this Subcommittee that it is time to STOP the reckless and dangerous practice of medical waste disposal at sea. H.R. 3478, which I have cosponsored, would ban the dumping of medical waste into our oceans. This bill must be enacted.

The nation has been horrified at the sights of syringes and blood vials washed up along the beaches of the East Coast, not just the New Jersey Coast. However, as my colleague, Mr. Saxton, said when he introduced H.R. 3478, almost even more alarming is that there presently is no Federal mechanism for tracking medical waste from the time it leaves a clinic or hospital until the time it reaches a point of disposal.

Mr. Chairman, we need a manifest tracking system for the generation, transportation, storage, and disposal of medical waste, as provided in H.R. 3478. We need to have cradle-to-grave coverage so that we have the information to crack down on violators who, for profit, choose to caste medical waste into the sea, and therefore, deplete our ocean's natural resources. As we all know, where natural resources are in danger, we must save them before they are lost from us forever.

I again thank the Subcommittee for the opportunity to testify and again urge passage of H.R. 3478. Thank you, Mr. Chairman.

STATEMENT BY REP. DEAN GALLO,
NEW JERSEY 11TH DISTRICT
SUBMITTED TO:
HOUSE SUBCOMMITTEE ON OCEANOGRAPHY
AUGUST 8, 1988, LONG BEACH ISLAND

MR. CHAIRMAN: Thank you for providing me with this opportunity to support legislation to create a national standard for the proper disposal of potentially hazardous waste materials of a medical nature. As an original cosponsor of the legislation that is the subject of this hearing (H.R. 3478), I commend your efforts and express my continuing support for timely Congressional action.

I share your belief that enactment of anti-sludge dumping legislation (H.R. 4338) now making its way through Congress must be followed in short order by legislation to require stricter requirements for the safe disposal of all medical wastes. Ending legal dumping and prosecuting illegal dumpers are equally essential elements in our efforts to protect the New Jersey shore.

In support of our mutual goal -- a cleaner and safer environment along our shoreline -- I would like to share with you a concern that I have regarding the ability of investigators to trace illegally dumped materials and offer a suggestion.

It is crystal clear to me that we must monitor the disposal of this material at every step of the process in the way we monitor the disposal of hazardous waste in New Jersey -- by requiring a manifest system for disposal of hazardous waste.

Because it can be more difficult to trace illegally dumped medical waste than it is to find the source of a hazardous chemical discharge, I believe we must require some form of identification markings on commonly used items such as vials and syringes that would assist in the tracking process if these items are disposed of illegally and found in places where they don't belong.

Midnight dumpers must know that they will be caught and punished to the full extent of the law. The most disturbing element of the current situation is that these dangerous materials on our beaches are difficult to trace.

Even with cradle-to-grave waste disposal monitoring, there is the potential for abusers to get away, unless we can identify these materials item by item when they are found.

I believe that strict cradle-to-grave monitoring of all solid waste produced by medical facilities and laboratories should include a labelling system that will further ensure that illegal dumpers will be caught.

I am absolutely appalled by the vials of blood, syringes and other potentially dangerous waste that have been found on New Jersey's beaches, and am equally concerned with the delays experienced in tracing this material to their sources.

Labelling of every individual item may seem extreme to some people, but I am convinced that we must have some means of gathering hard and fast evidence if we are going to successfully crack down on the midnight dumpers.

I urge you to consider the questions that I have raised concerning the need for labelling -- either now or in future legislation.

I support your efforts today and will work with you to a push for action on this legislation as soon possible.

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STATEMENT OF
WILLIAM J. MUSZYNSKI
ACTING REGIONAL ADMINISTRATOR, REGION 2
U.S. ENVIRONMENTAL PROTECTION AGNECY
BEFORE THE
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT
OF THE
COMMITTEE ON MERCHANT MARINE AND FISHEIRES
HOUSE OF REPRESENTATIVES

AUGUST 8, 1988

Mr. Chairman and members of the Subcommittee, I am William Muszynski, Acting Regional Administrator, Region 2. I appreciate the opportunity to be here today to discuss the Agency's current initiatives for better management of infectious waste and describe the methods prescribed by EPA for infectious waste management.

OVERVIEW

The recent outrageous incidents where floating debris and medical waste have washed up on our beaches, contributing to numerous beach closings, have again focused public attention to the nation's waste management problems. We share your concerns about the proper management of municipal solid waste and in particular medical waste. Municipal solid waste management has emerged rapidly as a major national issue. We, as a nation, produce more and more garbage; about 150 million tons per year. It is estimated that acute care hospitals generate 3.2 million tons of medical waste per year. EPA estimates that 10 to 15 percent of hospital waste is infectious.

The current washing up of floatables could be due to a number of sources: some alleged instances of illegal disposal;

combined sewer overflow; stormwater runoff; beach litter, legitimate home users of syringes such as diabetics and illegal drug users; and the general inadequate handling of solid wastes at landfills and coastal transfer facilities. The problems illustrate how despite major efforts to clean up the oceans--billions for Sewage Treatment Plant construction, major control of industrial discharges, and the phasing down of permitted ocean dumping--it is still not enough in the face of the explosive development and growth along our nation's coastline. Today it is estimated that seventy percent of our population now lives within 60 miles of a coastline. The solid waste situation is aggravated by increased use of plastic disposables by all consumers including the medical profession, and a near crisis in availability and cost of solid and infectious waste disposal options. The solution requires effort by all levels of government and by individual citizens who must become more aware of their own solid waste generation and disposal practices. We need to ensure that all wastes are properly managed to protect human health and the integrity of the environment.

Because of time constraints, I will limit my remarks today to medical wastes and more specifically on the portion of medical wastes which may be infectious.

RISK ASSOCIATED WITH INFECTIOUS WASTE

Medical wastes include a variety of wastes such as packaging (wrappers from bandages and catheters), containers (IV bags, empty vials) disposable items (tongue depressors,

thermometer covers) and, infectious wastes (blood, tissue, sharps, cultures and stocks of infectious agents). While hospitals, clinics and health care facilities may generate the vast majority of these wastes, medical wastes including those that are infectious are also generated by private practices, home health care, veterinary clinics, and blood banks. Thus, this problem and concern for the proper treatment and disposal of infectious waste cannot be resolved easily as there are numerous generators, many of which produce only small quantities.

EPA presently identifies six types of waste as potentially infectious. These include: (1) cultures and stocks of infectious agents and associated biologicals; (2) pathological wastes; (3) human blood and blood products; (4) contaminated sharps; (5) contaminated animal carcasses, body parts and bedding; and (6) isolation waste (as defined by CDC). While concern has been expressed as to their hazard, several studies that we would be glad to provide to this committee, have shown that hospital wastes are generally less virulent than typical domestic waste. In addition, the Centers for Disease Control (CDC) have no epidemiological evidence to suppose that hospital waste is any more infectious than residential waste or that hospital waste has caused disease in the community as a result of improper disposal.

Exposures to infectious wastes that could result in disease transmission are more likely to occur in those occupational

settings that generate, transport, store, treat or dispose of these wastes. Therefore, the education of those who generate, transport, and dispose of infectious wastes, we believe, may be the key to reducing any potential risks from these wastes. We are continuing to investigate these concerns to make certain our conclusions are accurate.

EPA's INFECTIOUS WASTE MANAGEMENT PROGRAM

EPA's role in the past has been one of providing guidance, assistance, and education. Our involvement with infectious waste since 1980 is highlighted in a chart attached as the last page of my testimony. I would like to discuss three of the more important actions taken by EPA during the past several years.

The "EPA Guide for Infectious Waste Management" published in May 1986, outlines the EPA perspective on environmentally acceptable techniques for managing infectious wastes. Topics covered include a working definition of infectious waste, the various categories of waste included under the definition, and recommended practices for packaging, transportation, treatment, storage, and disposal of these wastes. The document provides guidance to persons responsible for infectious waste management. State and local regulatory agencies have found and continue to find this manual useful as resource material.

In November of 1987, as a result of several incidents of improper management and disposal of infectious wastes and growing public concern about the potential threat of infectious waste, the Agency called together a panel of experts to discuss

the definition, proper management, and risks posed by infectious wastes. The meeting was held to evaluate EPA's past role in infectious waste management and to assist EPA in determining whether the Agency should undertake any additional action under the Resource Conservation and Recovery Act. The proceedings of this meeting have been made available to the public. The consensus of the panel was that the risks posed by infectious wastes were primarily occupational, that incidents of public exposure to infectious wastes were isolated, that EPA should deal with the situation through guidance and public education, and that EPA should issue regulations only if guidance and education failed to correct the problems associated with infectious waste management.

Most recently in a further effort to share available information on infectious wastes and their management and to obtain the views of all interested parties, we published a Federal Register notice on June 2, 1988, seeking comment on a number of issues related to infectious wastes. These include: (1) an appropriate definition for infectious waste, (2) an identification of the full range of problems and risks posed by infectious waste, (3) the appropriate role for EPA in managing infectious waste, (4) the appropriateness of requiring tracking systems for infectious wastes, and (5) whether certain infectious waste generators should be exempt if regulations were issued. The comment period for the Federal Register notice closed on August 1 and we have not had time to prepare a

complete summary of all comments received. We will forward a copy of the summary as soon as it is completed.

As of Thursday, July 28, 34 comments had been received from trade associations, hospital groups, state and local health departments and interested individuals. Our initial review of the comments received suggest the following. While the majority of commenters agreed with EPA's definition of infectious waste, several commenters suggested that differences in the definition between EPA and CDC should be resolved. There was no evidence presented by any commenters suggesting that properly handled and disposed infectious waste posed a public health problem. The majority of respondents agreed that workers in health care facilities, transporters of infectious waste, and workers at disposal sites run the greatest risk of exposure. There was some concern expressed that EPA should develop a model program to prevent excessive regulation at the local level. With regard to tracking systems, it was suggested that tracking should be administered at the State level, however, most commenters felt that the existing RCRA manifest system (Uniform Hazardous Waste Manifest) was too complicated. There was mixed response on whether or not small quantity generators should be exempted from any infectious waste control program.

RECENT INCIDENTS AND ACTIVITIES IN NEW YORK AND NEW JERSEY

I would like to take a moment to discuss the special situation in New York, New Jersey and recently in Rhode Island. Finding wastes on our beaches, including medical wastes is

frightening, and is inconsistent with EPA's goals of protecting the integrity of the environment. As noted previously, the current washup of municipal waste including medical wastes are probably due to a number of sources, the first and most important of which are alleged instances of illegal dumping.

EPA is directing its activities in four specific directions which I will briefly discuss here.

- o Compliance Monitoring and Enforcement

  We have stepped up our already aggressive monitoring and enforcement programs under the Marine Protection Research and Sanctuaries Act and the Clean Water Act. We are working closely with other Federal, State, and local authorities on surveillance activities and investigations.

- o Direct Assistance

  We are providing direct technical assistance to States that have recently experienced infectious waste mismanagement incidents. We held a series of meetings with New York State, New Jersey, and New York City to encourage a coordinated, uniform and consistant interstate approach to infectious waste tracking pursuant to existing State emergency regulations. The emergency regulations include a four part manifest-like system for all generators of 100 kg per month or more.

EPA also convened a conference under the National Estuary Prpgram to facilitate joint efforts between the States to address infectious waste problems.

o Education and Guidance

EPA's principal source for information on infectious waste management is our guidance document. However, we are also preparing brochures, posters, and a bibliography of abstracts of infectious waste studies. We are also preparing guidance materials to assist States in implementing infectious waste management programs under existing municipal solid waste authorities.

o Research

We have issued a contract to monitor discharge of solid wastes from combined sewer overflows inupper New Jersey and New York. Although the study is not yet completed, few infectious wastes have been found to date. EPA initiated the NY Bight restoration project to review pollutants and impacts on aquatic habitat and define methods for remediation. We are initiating a study on the impacts of plastic pollution as required by Section 2202 of the Marine Plastic Pollution andControl Act of 1987.

The Agency supports the soon to be announced implementation of a tracking system within the States of New York and New

Jersey under their respective emergency authorities as an intelligent first step to focus attention on this issue.

FUTURE DIRECTIONS

With potential legislative action pending for EPA involvement in infectious waste management, the necessity for EPA's involvement should be evaluated from the perspective of both the nature and degree of risk associated with infectious wastes. Education is the common denominator in resolving many of the pending issues. In an effort to better understand the risks, sources, and programs in place to control infectious waste, EPA has:

- o Initiated an evaluation of existing State programs and their effectiveness in controlling the management of infectious waste,
- o Established a Solid Waste Task Force to develop a comprehensive national strategy for the municipal solid waste problem. Their goals include increasing the amount of waste that is recycled and ensuring that all solid waste including medical waste is managed in a responsible manner,
- o EPA is developing a training manual for operators of hospital incinerators and an air compliance inspection manual,
- o EPA will consider regulations only if education and guidance fail to improve current management practices.

CONCLUSIONS

EPA's ongoing educational and technical assistance efforts should be sufficient to resolve these issues. Since these problems currently exist and since they appear to require education in their resolution, we will direct our initial efforts at providing the direction and information needed through the development of guidance documents. Educational materials for generators of infectious waste and sanitation workers who haul, store, transfer, treat or dispose of infectious wastes, should significantly assist in minimizing exposures to infectious wastes. The development and dissemination of educational materials can proceed more quickly than regulation promulgation. If educational efforts and guidance to states fail to solve the problem, regulations can be promulgated.

We all agree that good management of infectious waste is important and I will continue to count infectious waste management among my highest priorities. We all share the same concerns that solid waste, including infectious waste must be managed properly and that our near coastal waters and beaches must not be dumping grounds. The Agency is fully committed to using Section 7003 and other appropriate authorities to the fullest extent possible under RCRA or other environmental statutes when illegal disposal or dumping activities occur. I

look forward to working with all concerned to effect responsible solid waste management practices.

This concludes my prepared statement, Mr. Chairman. My colleagues and I will be happy to answer any questions you may have.

STATEMENT OF

MICHAEL F. DE BONIS

ACTING DIRECTOR FOR THE DIVISION OF SOLID WASTE MANAGEMENT

OF THE

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

BEFORE THE

SUBCOMMITTEE ON OCEANOGRAPHY

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES

U.S. HOUSE OF REPRESENTATIVES

AUGUST 8, 1988

Mr. Chairman and members of the subcommittee, I am Michael DeBonis, Director of the Division of Solid Waste Management, New Jersey Department of Environmental Protection.

I. Overview

Today, I will share with you the New Jersey Department of Environmental Protection's perspectives and overall reaction to the medical waste crisis which has affected not only New Jersey, but the entire East Coast Metropolitan Area. I will begin with a brief synopsis of the medical waste situation, as it pertains to New Jersey, followed by the Department's recent efforts to effectively combat this situation.

Many parts of the country, particularly the shoreline/resort areas are today facing serious economic and

environmental problems concerning the illegal disposal of medical waste. Recently in New Jersey, there have been numerous reports of illegal medical waste disposal, and more specifically, unpleasant situations have occurred where such waste has been identified on these same coastal communities. The appearance of needles, blood vials, and more recently, research laboratory animals in these areas have greatly impacted the environment and quality of life as well as the overall economy and growth of the State.

In response to a heightened concern on the part of the public with regard to medical (infectious) waste disposal, as well as the Grand Jury's December 1987 Presentment which called for more stringent regulation and tracking of medical waste, the New Jersey Department of Environmental Protection, with the assistance of the New Jersey State Department of Health is working on a tracking system to monitor the path of special medical (infectious) waste from the point of generation to its final destination. The Department is pleased at the federal and state legislative initiatives in this regard. Senators Bradley and Lautenberg and Congressman Florio, together with representatives from numerous other states are supporting aggressive medical waste programs. At the state level Senator Pallone and former Assemblyman, now Commissioner of Community Affairs Villane have been successfully mustering support for legislation that calls for a strong state directed medical waste tracking system.

Additionally, the Department of Environmental

Protection in conjunction with the Department of Health, is presently developing a comprehensive program which will substantially reduce the public's exposure to medical waste. Now, let me take a few minutes to discuss with you the components of an effective waste tracking system.

The most difficult paradox concerning the medical waste problem is that although we recognize that immediate action is required to prohibit the assault we are experiencing because of inappropriate disposal practices, relatively little is known about the distribution of this type of waste at the point of generation. Therefore, it is our responsibility to implement a program which would survey the potential generator community, and develop a database to focus our regulatory authority. This data is critical in understanding the total picture regarding medical waste flow in the State, and will aid the Department in developing and tailoring future rules. In addition, this data base should, based on statistical information, give the Department guidance to focus our regulatory authority. As responsible government officials, we cannot afford to allow current existing practices to continue unchecked. Instituting a tracking system should begin to force irresponsible dumpers to account for their actions, as well as continuing to regulate the already responsible generators. Such a system should specifically address those generators who produce medical waste. Those parties, be they individuals or institutions, which produce waste products like bulk blood, pathological wastes, needles, syringes, sharps, animal carcasses, communicable diseases related

waste, have a significant impact on our waste stream. If we are to be effective with regard to this program these wastes must be controlled.

This manifest type tracking system should be completed in part by the generator, transporter, and disposal facility. The generator has the ability to supply information which includes not only the names and addresses of the generator, transporter, and the disposal facility, but also information about the types and amounts of the medical waste being transported. Such information can then be concurrently checked by both the transporter and disposal facility, thus minimizing the possibility of waste flow violations. Furthermore, the proper documentation should ensure that the material is handled safely, and disposed of properly, thus lessening the possibility for illegal, haphazard dumping, specifically "ocean dumping" which can result in medical waste washups.

New Jersey's comprehensive medical waste program will also reduce substantially, the public's exposure to infectious medical waste. It is important that government provide stringent guidelines regarding the safe and effective treatment, packaging, and handling of special medical waste, including the identification of medical waste bags and packaging containers at the point of generation. We feel, furthermore, it is imperative that the health and safety of employees is protected at facilities handling medical waste.

Another important issue is transportation. For example, all vehicles

which transport special medical waste should be constructed according to certain standards. They should be sealed, have leadproof floors and lockable cargo doors, structural barriers separating the cargo area from the driver. In addition, no compacting vehicles should be used to transport any type of special medical waste at any time.

Standards governing the type and construction of special medical waste barges should be established as well. Such guidence will ensure the safe and effective transport of special medical waste from the generator to the disposal facility. The State, together with the federal government must take actions to reaffirm a commitment to the preservation of the environment and the protection of the public health and well being.

II. Comments on House of Representatives Bill H.R. 3478 by New Jersey Department of Environmental Protection.

House of Representatives Bill 3478 is a substantive and comprehensive piece of legislation which addresses the problem of medical waste disposal. Instituting a maximum fine of $ 100,000, we believe, is a necessary deterent in preventing the unauthorized and illegal dumping of medical waste, and should hopefully reduce future episodes of illegal disposal. Furthermore, by taking this action, Congress is indicating its clear intent that unpermitted discharges of medical waste represent a more severe violation than any other pollutants regulated by either the Federal Water Pollution Control Act or

the Marine Sanctuaries Act. Secondly, the Department of Environmental Protection is in support, and is presently formulating rules which will effectively track medical waste from the generator to the disposal facility, a point which I have briefly discussed with you. Also, we are in support of a more comprehensive set of rules addressing the generation, transportation, treatment, storage, and disposal of medical waste. There is one other item which I would like to discuss with you.

The bill's definition of pollutant includes "any solid waste generated by a facility providing health care services, including veterinary services". Such a definition would exclude (if not already present in section 502(6) of the Federal Water Pollution Control Act of 1977) facilities such as nursing, histological, microbiological, pathological, diagnostic, or research laboratories, which generate a large percentage of the waste stream. New Jersey believes the definition of "generator" must include all health care services and veterinarians, as well as non-health care services which produce substantial amounts of medical waste. I ask your consideration of a broader definition of the term "generator".

Conclusion

Mr. Chairman, it has been a pleasure to be here and to present these comments. I have attempted to convey a sense of what the New Jersey Department of Environmental Protection is undertaking, and how our work ties into the components of the

various pieces of legislation that has been introduced.

Ultimately, at issue is the nation's success is dealing with the illegal disposal of medical waste. Clean water, safe beaches free of medical waste, and an aesthetically pleasing environment are essential to the health and welfare of New Jersey's and the nation's population. With measures such as suggested in the legislation before you and pending before other governmental bodies a positive first step has been taken to effectively address this problem.

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TESTIMONY

OF

CRAIG A. BECKER

VICE PRESIDENT GOVERNMENT RELATIONS/

DIRECTOR REGULATORY AFFAIRS

NEW JERSEY HOSPITAL ASSOCIATION

ON

HR 3478

BEFORE

MERCHANT MARINE AND FISHERIES

SUBCOMMITTEE ON OCEANOGRAPHY

Good day, my name is Craig Becker, Vice President for Government Relations of the New Jersey Hospital Association which represents all 106 of New Jersey's Acute Care hospitals.

I would like to thank the subcommittee for allowing me to testify today on HR 3478, a bill that will have an impact not only on our shore but on our healthcare industry as well.

First, let me state that the Association has become convinced that its members are not responsible for the medical waste that has washed up on our shores. New Jersey hospitals must follow stringent regulations dealing with the disposal of sharps and needles, which must be placed in a crush-proof box, incinerated or otherwise obliterated. True infectious waste must be incinerated, sterilized, or properly landfilled and we feel comfortable, in absence of tangible proof, that our members are disposing of their sharps, needles and infectious wastes properly.

Having said that, I would also hasten to add that New Jersey hospitals would welcome a reasonable and workable manifest system to track the disposal of sharps, needles and infectious wastes. We are not the "bad actors" of this problem and would welcome the comfort provided by such a manifesting system.

I would like to add a few caveats to acceptance of any manifest system. The system to be devised must be workable and doable. There have been calls for medical waste to be considered the same as hazardous waste and be placed in the same category as chemical wastes. We submit New Jersey hospitals are not chemical companies and their waste streams should not be treated the same.

In New Jersey, diverse groups have been grappling how to best deal with this problem on a formal and informal basis for the past two years. This coalition, including generators of medical wastes, haulers, Departments of Health and Environmental Protection have all agreed a manifest system to deal with this problem is desirable. Who is to be considered a generator, and whether the definition should include both large and small generators, is still being debated.

However, most agree with the creation of a coupon system which would establish an easily traceable paper trail to determine responsibility for any wastes not properly disposed. The coupon system would require a hospital to weigh the amount of infectious wastes or sharps and needles, and require the hauler to verify receiving that amount. Once this waste is taken to the transfer station the amount will be verified and logged. After leaving the transfer station and taken to a landfill or incinerator, the logging process would continue. In one scenario, the coupons would all come back to the generator who would be responsible for informing the appropriate enforcement agency of any discrepancy. Another scenario would require the enforcement agency to review all coupons for discrepancies. In any event, as the waste moves from

generator to hauler to transfer station to final disposal, so does the liability. We believe this would be an effective and efficient way of ensuring that generators, haulers, and disposers of medical infectious waste adhere to the process in an appropriate manner.
This, I believe, is the core of HR 3478, which we would endorse.

Our discomfort over the bill arises in the definition of "medical waste" and "material." The current definition in HR 3478 would require all our wastes to be handled in a special manner. Our non-infectious disposal costs (which represent about 80% of our waste stream) is about $100 per ton. Infectious waste disposal for hospitals is about $1200 per ton. So, increasing our waste disposal costs to the infectious waste amount could seriously affect the financial viability of several of our institutions. Also, any increased disposal costs will be reflected in increased charges to the consumer. In addition, we would like to encourage Congress or the EPA to establish criteria and perhaps a permit system for haulers so that generators will be comfortable knowing they are dealing with a reputable firm.

Finally, we would like to share some of the long range thinking of the Association in the disposal of infectious medical waste. As disposal costs increase and as pressure to close landfills grows, hospitals, as do other generators, must look to alternative disposal services. We, at the Association believe incineration, coupled with recycling, is clearly the solution.

Present generation incinerators can burn medical infectious wastes with little or no pollutants emitted. However, because of local opposition it has been vitually impossible in many communities for hospitals to install these facilities. Those hospitals that have burners are realizing savings in disposal costs and, in some cases, are being provided with energy sources. We would hope that Congress could provide leadership in encouraging facilities and states to study incineration as an alternative to landfilling.

Once again, I would like to thank the Committee for the opportunity to speak and for your interest in assuring we have a workable, but effective, medical waste disposal system.

Statement of

JACK QUINN

Vice President / Planning & Development

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On Behalf Of

MEDICAL & HAZARDOUS WASTE MANAGEMENT CORP.

4001 Boston Road - Bronx, New York 10466

Before The

Subcommittee on Oceanography

Surf City, New Jersey

August 8, 1988

MEDICAL AND HAZARDOUS WASTE MANAGEMENT

4001 BOSTON ROAD-BRONX, NY 10466-(212) 325-8100 MHWMC

August 4, 1988

Congressman Mike Lowry
House Annex #2, Room 542
Third & "D" Street, SW
Washington, DC 20515

Re: Subcommittee on
Oceanography
Bill HR 3478

Dear Congressman Lowry and Committee:

It is with deep appreciation that I am responding to your request for comments on HR3478. Our company, Medical and Hazardous Waste Management Corp. is the largest on the East Coast and also the forerunner in this industry.

Background: The Infectious Waste Problem

Though we in the industry responsible for handling and disposing of infectious waste have been concerned about its potential problems for some time, the issue has come to national public attention largely within the past year. One milestone for public awareness occurred in 1987 when a dozen children in Indiana found vials of contaminated blood and syringes in a trash bin outside a health clinic. They played with the vials, as children would do, and as a result were potentially exposed to AIDS. This spring, during the annual clean-up of Texas beaches, vials of blood and syringes were found along the Gulf Coast.

Last month, the problem of infectious wastes became a Page 1 issue nationally, and it became a serious health and economic concern for several specific areas of the country. When wastes washed ashore along the Atlantic Coast, several of the country's most attractive and popular beaches were affected. Some of them had to close at the very time that they are most in demand, on the Fourth of July holiday weekend. Let me remind you of what we have experienced just in the past few weeks:

- On July 3, in Bayonne, New Jersey, 100 vials containing blood washed ashore from Newark Bay.
- On July 3 and 4 - again, the holiday weekend medical wastes washed up onto Ortley Beach and Berkeley in New Jersey.

- On July 6, more than 15 miles of beaches on Long Island in New York had to be closed when a wave of sewage, syringes, blood vials and infectious hospital wastes washed ashore.

- On July 7, ten miles of beaches on the western tip of Fire Island in New York had to be closed by similar infectious debris washing ashore.

- On July 20, the infectious waste problem spread northward. Medical wastes were discovered on beaches in Martha's Vineyard, Edgartown, and Rhode Island.

The Potential Hazards of Infectious Waste

These dramatic incidents have catapulted the issue of infectious wastes to public and political attention. The concern of our company runs even deeper - to constant hazards that do not attract this level of media and political interest. We are concerned about infectious wastes because we are the people who handle it, who ship it, and who dispose of it. We are acutely aware of the potential for occupational hazards.

Our concern is not just with AIDS or other dramatic or exotic diseases. Infectious wastes are more likely to carry diseases that are less sensational, but nevertheless serious. For example, the Centers for Disease Control estimate that 200,000 new cases of Hepatitis B occur every year in the United States, and that 10 percent of those infected become "chronic carriers" of the virus. About 10,000 people with these infections are hospitalized each year. This virus is easily transmitted by discarded needles, which alone would make them a potential hazard to waste handlers as well as to children playing around refuse bins where such needles have been discarded.

Meanwhile, the volume of infectious waste is growing. The largest generators of infectious wastes are primary health care facilities. They discard an estimated 16 pounds of solid waste per occupied bed per day. Until recently, about 10 per cent of this total was managed as infectious wastes. But health care facilities have begun applying what is known as "universal precautions", under which special safeguards

are applied to all products that come into contact with blood or bodily fluids. As a result, the percentage of hospital waste that needs to be managed as infectious waste has increased to the range of 30 to 40 percent.

The potential hazards of the waste become greater when it is not properly handled, treated or labeled. It is critical that infectious waste be separated and properly contained at the source, to minimize the risk to health care and refuse workers. Problems arise when infectious waste is co-mingled with regular refuse. As the report from the New York City Environmental Control Board last week showed, that practice is not uncommon: it found that more than half the city's hospitals have been co-mingling infectious waste with regular trash. If this occurs, it is impossible to distinguish between waste that is "safe" and waste that is "unsafe".

In addition to improper handling, another problem involves improper treatment. Waste that has been treated at an incinerator may remain dangerous if the incinerator does not achieve temperatures high enough to destroy infectious organisms. Similarly, attempts to sterilize wastes through the heat process called autoclaving can be incomplete, if the wastes are not exposed to sufficiently high temperatures for an adequate period of time.

The Federal Role and Legislative Trends

We in the industry would like to see a minimum of at least these points brought out by the E.P.A.

- An explicit and comprehenseive definition of the term "infectious/biomedical waste". A common definition of the material to be managed as "infectious" is essential for any uniform national program. Allowing individual infectious control officers at hospitals to judge what is infectious and what is not will lead to inconsistencies, misunderstandings, and, at best, a spotty implementation of a national management system.

- A prohibition against exempting any generators from regulation, even small-quantity generators. The materials we are discussing can transmit diseases even in very small volumes. My company believes that the only volume that can be exempted is "zero".

- A prohibition against any disposal of infectious waste without prior treatment. Increasingly, workers are refusing to handle infectious wastes that have not been certified as having been treated. Society as a whole should not allow the disposal of such waste.

- A mandate for E.P.A. to develop a national regulatory program with specific minimum requirements. The basic objective of this program should be to create a regulatory "floor" that would lead to a uniform approach to the management of infectious waste in every state in the country.

One important element of E.P.A.'s effort must involve setting minimum requirements for shipping paper control. Confidence in the system of management of infectious waste ultimately depends on the "paper trail" of documentation. Detailed information must be provided by the original generator of the waste, the transporter, the treatment operator, and the disposal site operator. E.P.A. should develop a standard national system of documentation for infectious waste. I believe as you do, that there needs to be an accountability for this type of material. The accountability would come in as you have stated with a tracking system and also a manifest system that would be a uniform system established across the country. Right now individual states or groups of states are looking at establishing a manifest system. We currently use a manifest system which has been in operation over five years, plus a tracking system and have no problems with utilizing this system. Enclosed is our waste manifest, used for pick up and disposal of this waste. There is also a section for a tracking number to be placed on by our computer so we can track this waste from cradle to grave.

Under the penalties for the medical waste violators, I would make them over $1,000,000 in fines and I would also include jail sentences as any one who would willfully and wantonly dispose of this material in the ocean and cause this type of tremendous inconvenience and also health hazard to the public, should receive a minimum $1,000,000 fine with a maximum jail term of ten to twenty years as these people are only in it for the dollar and not the concerns of the general public.

Conclusion

We at Medical and Hazardous Waste Management Corp. believe that there is a need for additional legislation and regulation related to the management of infectious waste in the United States. In particular, the Federal government should establish a uniform national program of standards that would serve as a minimum for states to adopt and enforce. We believe our proposals would lead to a balance between the protection of the health of waste handlers and the general public, and the national need to contain the cost of health care.

Mr. Chairman, I would be pleased to provide additional information to any parts of the legislative or regulatory processes as they evolve. And, again, I appreciate the opportunity to present these comments for your consideration.

Sincerely yours,

Jack Quinn

Jack Quinn
Vice President
Planning & Development

JQ:sw
Encl.

TESTIMONY OFFERED IN RESPONSE TO
HR 3478, "TO AMEND TITLE I OF THE MARINE PROTECTION,
RESEARCH AND SANCTURARIES ACT OF 1972," AND THE
FEDERAL WATER POLLUTION ACT OF 1973 TO
BAN THE DUMPING OF MEDICAL WASTE IN OCEAN AND NAVIGABLE WATERS

Prepared by Dr. Robert B. Abel, President of the
New Jersey Marine Sciences Consortium for a
Meeting of the Subcommittee on Oceanography of the
House of Representatives Merchant Marine and Fisheries Committee
August 8, 1988

Mr. Chairman, Members of the Subcommittee, I am pleased and honored to have been invited to appear before you to testify concerning Bill HR 3478.

My name is Robert B. Abel. I am President of the New Jersey Marine Sciences Consortium, an alliance of twenty-nine colleges and universities in the New York, New Jersey, and Pennsylvania area. The functions of our Consortium are to coordinate marine research, education, and public service for the member institutions; to conduct graduate/undergraduate curricula for the institutions; to maintain a precollege program to indoctrinate students in marine affairs; and to provide the laboratories, vessels, equipment, and personnal for the use of the member institutions in common cause.

Personally, I was the chemist on the first survey of this area exactly 40 years ago, and have been involved in the nation's ocean program ever since. In evidence of this, I'm pleased to offer my curriculum vitae for the record.

Given the above responsibilities and outlook, my mission and intent is to circulate your bill -- just received -- among the member institutions and to form a consensus from among their respective marine experts. With your permission,

therefore, Mr. Chairman, I would like to submit that consensus for the record at a future date.

The Consortium and its member institutions are deeply involved in a large number of matters relating to water quality in general, with particular reference to the New York Bight and Middle Atlantic Coast.

1. We have formed, and manage and support, a large Water Quality Panel composed of experts from federal and state agencies, private industry, and our member institutions. This panel has studied New Jersey's waters -- including Raritan Bay, the Atlantic Ocean, and Delaware Bay -- for the past two years. We have published the first volume, i.e. "Raritan Bay," and are now in the process of preparing our report on the Atlantic Coast to be delivered to the State. We will be happy to make copies available to your Subcommittee at the time of publication. I'm pleased to offer a summary of the first volume for the record.

2. We participated heavily last year in a project to investigate reports of illnesses allegedly caused by bathing in New Jersey's waters. In this, we cooperated closely with the Department of Health and Department of Environmental Protection, in New Jersey, and the University of Rhode Island's Water Quality Institute. We were enabled to get off to an early start in this project both last year and this year by grants

from the Victoria Foundation, which supported purchase of necessary equipment, outfitting of our vessel, and the staff time to give us a head start on the project. In returning for this year's extension, however, we were advised that the Department of Health is no longer concerned with physical oceanography. I'll return to that point later.

3. The Consortium is the Manager of New Jersey's Sea Grant Program, of which water quality, fisheries assessment, and preservation of the marine environment are the major components.

4. The Consortium was the prime contractor in the famous Westway Fisheries Project; although the project itself had a checkered history, the Consortium received the only award for contractor excellence ever given out by the New York District of the Corps of Engineers.

5. In response to a request by Playtex International Corporation, the Consortium designed a large-scale project to investigate the routes and fates of manufactured plastics inadvertently carried through the sewer outfall systems in the New York Bight.

6. As everyone knows, Governor Kean is generally recognized as one of the most progressive governors in the nation, with particular reference to environmental protection. In fact, two months ago, I was privileged

to hear the Executive Director of the Council of Governors single out Governor Kean as a national leader in that regard.

Several months ago, the Governor promulgated a 14 point doctrine, encompassing his intention to clean up the beaches. Point #10 appeared to curtail the ability of the Port Authority of New York and New Jersey to continue dredging operations, by immediately prohibiting further use of the existing dump site. The Consortium was asked to resolve the controversy through a one-day work shop, involving the top regional experts in the technical, environmental, and economic aspects of dredged spoil relocation. The conference was a complete success, and I will be happy to furnish this committee with copies of the soon-to-be-released report. It will deal with all aspects of dumping.

In order to set proper perspective for my remarks, Mr. Chairman, it's necessary to emphasize that as an alliance of universities, our charter is to supply information, with concomitant analyses. Under normal circumstances, we are precluded from adopting positions of advocacy.

Having said this, I must observe that our region does not want for planning. Everyone is planning! During its hearings, your Committee will undoubtedly come in contact with a myriad groups, all of whom are motivated similarly, i.e. toward restoration of our surrounding waters. All of these groups' objectives and motivations are unarguable and admirable. What is needed, however, is a concentration of focus, i.e. orchestration. Under the American system, of course, it often devolves about the Congress to provide such leadership.

By the same reasoning, however, a similar need for orchestration is needed at various public levels. As perceived at the college level, authorities and responsibilities for matters under this Committee's jurisdiction rest with EPA (as indicated by the Legislation itself), the Department of Interior's Fish and Wildlife Service, the Department of Commerce's National Oceanic and Atmospheric Administration, (including the National Ocean Service, the Sea Grant Program, and the Office of Marine Pollution Programs), and the U.S. Army Corps of Engineers.

Respecting the beach closings in the New Jersey area, the following may be observed:

1. Last year a large number of physicians and dentists co-signed a petition to the State requesting a large-scale investigation of New Jersey's waters under the proposition that those who bathe therein are at risk. In the Consortium's view, a new element or elements which harm people and mammals may or may not have been introduced to the environment. Nonetheless, enough evidence was produced by these doctors that the matter simply had to be investigated, and we applauded New Jersey's Departments of Health and Environmental Protection for responding to the Doctors' coalition with alacrity. The Consortium worked through its members: Stevens Institute of Technology and Drexel University, and provided vessels, equipment and staff, as well, for the project. This year, however, the Department of Health advised me that they would not longer include physical

oceanography (e.g. tides, currents, atmospheric movement, etc.) in their program. We are greatly distressed at this, inasmuch as absence of knowledge of where the pollutants come from and where they go sharply restricts the State's efforts to solve the problems. We now hope that the Department of Environmental Protection will assume this important responsibility.

2. There is also a possibility that pollutants being released into New Jersey's waters are providing chemical components, i.e. nutrients, the dearth or absence of which have normally limited proliferation of potentially harmful fauna, such as dinoflagellates. Release of such nutrients in the past has been known to cause phenonema such as red tides.

3. The problem may essentially be atmospheric-driven, i.e. caused by unusual wind conditions, driving pollutants and debris on shore, rather than allowing them to drift into the mid-ocean. As is well known, atmospheric circulation in the area is normally from the west and north; a statistically significant shift in the normal wind pattern would cause the wash-up of large amounts of debris, dead mammals, and other unwanted materials.

4. There are estimated to be 750 sewage outfalls in the New York area; no one knows all of their locations, but their annual production of several billion gallons of raw sewage is painfully apparent along New Jersey's beaches.

5. Wastes passing through the estuarine system are seldom classifiable according to origin, i.e. human, animal, bird, etc.

6. The incidence of floatables is increasing, (contrasted with the general water quality index which is improving). While not usually directly harmful, they do create an outraged citizenry.

7. Striped bass have now been removed from the market owing to contaminants.

8. One hundred thousand acres, i.e. a quarter of New Jersey's productive shellfish beds, have been closed, owing to contamination.

9. Last year we witnessed the apparent tragedy of large numbers of porpoises washing ashore; dead from thus-far unidentified causes.

10. Regardless of whether or not New Jersey's waters "may be harmful to your health," they are aesthetically - extremely unappetizing. The garbage which characterizes our beaches is even more so.

11. Although the current (106 mile) dumping site is in reality sufficiently removed from human use areas to minimize risk, the concept of dumping more than seven million tons of wet sludge still appears to antagonize everyone who becomes involved in the situation.

In addition to the above-mentioned technical problem, we have to recognize, and reckon with, numerous social dilemmas:

1. Public perception is antagonistic to ocean incineration, which, in actuality offers a viable alternative to other methods of waste disposal.

2. The public reacts, primarily, to what it sees, e.g. color changes and floatables. Ironically, the harm is normally done by non-perceivable contaminants, such as bacteria, dissolved organics, etc. This partly accounts for the paradoxes often described in the Asbury Park Press; i.e. the coincidence of the cleanest waters in years and the loudest public outcry.

3. More cooperation and cohesion is needed by the myriad environmental groups whose ultimate goals are common to all, but whose uncoordinated activities tend as often to blur the picture as to clarify it.

4. In the region's perception, the responsible federal agencies are not acting in the most coordinated manner possible. This may be a misconception, but the feeling is widespread that of NOAA's two waste abatement functionaries, one works closely with the EPA; the other does not. There is further perception that the Departments of Navy, Interior, and Energy are involved, somehow.

5. Encouraged by the interest groups, people continually fault the responsible public officials for being too lenient; the officials are also castigated by industry as being too strict and arrogant.

To respond, now, to the question: What can/should Congress Do?

1. Ask the director of NOAA's Office of Marine Pollution Coordination to recommend procedures for tightening coordination among the federal agencies' waste abatement, and utilize their aggregate budgets and resources more efficiently in common cause.

2. Arrive at some sort of agreement with the state government (Council of Governors?) respecting relative responsibilities for funding pertinent research.

3. Include in the report accompanying the Sea Grant Authorization the intent of Congress that x% of research be devoted to the above listed problems. Convey a similar message to EPA.

4. Individual Congressional staffs should assist state and local environment officials in working with the press, particularly in sensitizing non-coastal communities.

I would like now to address your bill, directly. First, it is, of course, unarguable. Certainly, no one can seriously question the objective of

curtailing the indiscriminate dumping, and consequent washing up, of medical waste on our beaches. Candor, however, requires the following observations:

1. Medical waste, while perhaps the most dramatic, is just one component of the menu of filth which desecrates New Jersey's beaches. Your Committee is particularly perceptive in amending existing bills, therefore, vice setting forth new legislation.

2. The problem - or at least its perception - appears rather recent. Perhaps some investigation is merited into why this has so suddenly burst upon us.

3. The key operative phrase in the proposed bill, i.e. Section 77011 (a) states that "The regulations shall require that medical waste be tracked from the point of generation to the point of disposal." It seems equally important that the offending materials, once having emerged on share, be tracked back to the offending point of origin. This highlights the importance of understanding the physical oceanography of the respective areas.

And finally, to the question: What can the Consortium do?

For the past several days, I've been in contact with Dr. Brenda Davis, the Governor's Chief of Policy and Planning, representatives of the N. J. Department of Environmental Protection, and, of course scientists of our member _

institutions. Members of the Committee, I want to mobilize the Consortium's resources in three ways:

FIRST: Technical. My associates and I are greatly distressed by the perception - apparently shared by several public officials as well as the public at large, that pollution is purely a biological, or biochemical phenomenon. Unless the affected area -- meaning its residents and officials responsible for their well being -- understand that physical processes can be equally important, they can never reduce the problem. Converting to popular jargon: We've got to know where the stuff is coming from and where it's going, to take effective remedial action.

SECOND: Aesthetic. The fact that indexes of scientific measurement tend to portray our waters as the cleanest of the past several years, does little to allay popular dread. It's bad enough when the beaches are closed day after day, but when they are finally opened, and people still won't enter, and local businesses confront economic disaster, then - the imaginary becomes real! Our state and federal agencies confront a terrifying public relations problem. As Commissioner Dewling so cogently states, when he tells the public something's right, a third of the people believe him; when he tells them something's wrong almost everybody believes him. The Consortium - representing the scientific staffs of 29 member institutions - wants to do its part to convince people that (at least some of) the agencies are trying their best, and the water isn't nearly as fatal as perceived.

THIRD: Administrative. A problem with public agencies concerns the massive bureaucracy which inevitably retards their ability to respond to crises. While the public may not believe this, the public is the cause. The hundred person agency which works year after year in the public cause may rate, at best, a loud ho-hum in the press, but just let one bad apple walk off with swindled goods, and all the Lord's powers in Creation are invoked to similarly tar his civil service colleagues.

What all this means is that New Jersey's Department of Environmental Protection is concerned as to how it can mount a reasonable project to investigate the current outrage -- quickly. Accordingly, I have advised the Governor's assistant, Dr. Brenda Davis, Commissioner of Environmental Protection Dewling, and his associate, Dr. Robert Tucker, of the Consortium's willingness to place our vessels on site with equipment and scientists on board in a matter of hours, with nothing more binding than a gentlemen's agreement, just as we did for the Department of Health last year.

My motivation in taking this step, members of the Committee, is based not so much on enthusiasm as on deep concern.

Finally, we must not be content to approach -- even successfully -- this current crisis as the totality of the problem; it is the symptom, rather than the disease. We absolutely must undertake long range research in order either to prevent further reoccurrences, or if we can't, at least to ensure that the tools to deal with them are immediately available. I speak specifically of a master model of near shore circulation, from Sandy Hook to Cape May.

Only in this way, will we be able to tell who's doing what to whom, and how, when, and where.

Again -- my thanks for your invitation to appear before you.

jwb

8/2/88

Testimony of Joe Azzolina
before the Merchant Marine and Fisheries
Subcommittee on Oceanography
August 8, 1988

Mr. Chairman, Congressman Saxton and members of the committee. I welcome this opportunity to add my comments to the testimony you will be hearing on H.R. 3478, a bill that would authorize the EPA to create a federal medical waste manifest system.

I am submitting this testimony to urge you to adopt an amendment that would require industry to batch code certain disposable medical supplies as an additional means of tracking down dumpers responsible for illegally disposing of infectious medical waste.

Enough has been written and said about the serious problems we've been facing -- not just in New Jersey, but all along the East Coast -- with infectious medical waste washing ashore on our beaches. I think we all agree that this is a problem that transcends state lines and political loyalties. We have got to improve our current system of disposing of infectious medical waste.

The legislation you are working on to authorize the EPA to create and implement a manifest tracking system is necessary to better monitor the way in which medical waste is handled and discarded.

I do believe, however, that a manifest system alone is not the complete solution to this problem. In recent weeks I have been posing the following question: "Even if we had a manifest system in place, would we have been able to trace the source of the syringes and blood vials that have been washing up on our beaches?" Unfortunately, I think the answer is "no."

The medical waste we've been seeing is mostly single items -- syringes, vials and blood bags. It does not come in pre-wrapped packages in the form of a waste shipment from a hospital. My point is that, even with a manifest system to track these shipments from hospital to hauler to final destination, we still will not be able to trace individual disposable items that wash ashore.

That's why I have proposed a system to augment the manifest tracking legislation by requiring the manufacturers of certain disposable medical supplies to imprint batch code numbers on their products. The batch sizes could be determined by examining the standard quantities in which hospitals purchase these items.

The process would be simple and, I believe, low in cost and bureaucracy. Once a manufacturer codes a batch of syringes or vials, he would log which hospital bought that batch along with his sales records. The hospital, in turn, would log its receipt of that batch along with its current inventory system. Then, if one of the syringes or vials ends up on the beach in spite of the manifest system, we would be able to trace it back through the manufacturer, through the hospital and ultimately to the dumper responsible for disposing of it improperly. Only then will we be able to identify and punish those responsible for careless and illegal dumping.

This system would accomplish two very important goals. First, we would insure that we have a mechanism to find out who is responsible for the tragedy of infectious medical waste on our beaches. We could avoid the frustration we face today in which we find these items -- sometimes because an unsuspecting beachgoer stepped on them -- and we are helpless in pinpointing who is irresponsibly.

Second, we would be adding to the deterrent of illegal -- sometimes known as "midnight" -- dumping. Unless we convince those who are responsible that they will be caught and severely punished, this kind of activity will go on. As we all know, the ocean is, unfortunately, a cheap and accessible alternative to proper disposal of waste.

Used syringes and broken blood vials are like loaded guns and we should treat them similarly. We already code our guns to make sure we can trace them if need be. I see no reason why we can't do the same with certain disposable medical supplies.

I hope that the manufacturers of these items consider batch coding voluntarily, in much the same way certain over-the-counter drugs (like Tylenol) are coded. If the manufacturers are unwilling to act on their own, I urge this committee to adopt this batch coding proposal as an amendment to the medical waste manifest legislation.

Thank you for this opportunity to present my ideas. I welcome any comments or questions you may have.

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FOR IMMEDIATE RELEASE

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August 8, 1988

AZZOLINA URGES CONGRESSIONAL PANEL TO ADOPT BATCH CODING AMENDMENT

Republican Congressional candidate Joe Azzolina today urged a Congressional panel to add batch coding of certain disposable medical supplies to legislation authorizing a federal manifest tracking system for medical waste.

In written testimony submitted to a U.S. House of Representatives' Merchant Marine and Fisheries subcommittee, Azzolina said the waste tracking legislation should be amended to include a provision requiring manufacturers of syringes, vials, blood bags and other supplies to batch code their products.

"In recent weeks I have been posing the following question: 'Even if we had a manifest system in place, would we have been able to trace the source of syringes and blood vials that have been washing up on our beaches?' Unfortunately, I think the answer is 'no,'" Azzolina said.

A month ago, as part of his 12-part program on ocean pollution, Azzolina called for legislation requiring manufacturers of medical supplies to code their products in batch sizes determined by hospital purchasing patterns.

With a code number imprinted on these items and proper logging practices, those responsible for illegal dumping could be identified and severely punished, Azzolina said.

Paid for by the Joe Azzolina for Congress Committee, Gary E. Fox, Esq., Treasurer.
Political Contributions Are Not Tax Deductible

"The medical waste we've been seeing does not come in pre-wrapped packages in the form of a waste shipment from a hospital. Even with a manifest system to track these shipments from hospital to hauler to final destination, we still will not be able to trace individual disposable items that wash ashore," Azzolina said.

"Used syringes and broken blood vials are like loaded guns and we should treat them similarly. We already code our guns to make sure we can trace them if need be."

Azzolina's testimony was submitted to the Subcommittee on Oceanography at a hearing on H.R. 3478 in Surf City. The bill, which is co-sponsored by Rep. James Saxton and Rep. William Hughes, authorizes the Environmental Protection Agency to set up a cradle-to-grave tracking system for disposal of infectious medical waste.

Several weeks ago, Saxton praised Azzolina's suggestion and invited him to offer his ideas to the subcommittee.

Azzolina said he would like to see manufacturers voluntarily adopt a batch coding process. Otherwise, he stressed, legislation mandating coding is necessary.

With such a system, Azzolina said "we could avoid the frustration we face today in which we find these items and we are helpless in pinpointing who is responsible."

"Unless we convince those who are responsible that they will be caught and severely punished, this kind of activity will go on," he said.

"I think we all agree that the problem of medical waste transcends state lines and political loyalties. We have got to improve our current system of disposing of infectious waste."

Azzolina is a candidate for New Jersey's Third Congressional District.

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ahca
American Health Care Association 1200 15th Street, Washington, DC 20005 (202) 833-2050

August 25, 1988

U. S. Representative Mike Lowry
Chairman, Subcommittee on Oceanography
Committee on Merchant Marine & Fisheries
H2-542 HOB Annex 2
Washington, D.C. 20515-6234

Dear Mr. Chairman:

It is my understanding that the Oceanography Subcommittee of the House Merchant Marine and Fisheries Committee has held field hearings on HR 3478, which would ban ocean dumping of medical waste and regulate medical waste to protect public health and the environment. The following comments are submitted regarding HR 3478 on behalf of the American Health Care Association, which represents 9000 of the nation's nursing homes providing care to more than 950,000 patients each day.

The American Health Care Association agrees that dumping of medical waste in the ocean should be banned and is pleased to support this measure.

We would suggest, however, that the definition of medical waste found on page 2, lines 2 through 4 and lines 16 through 18, and page 5, lines 5 through 8 is too broad, would create unnecessary expense without providing additional protection, and consequently should be replaced with:

> "Special medical waste" means liquid and solid microbiological culture media; needles, syringes, and sharps; pathology specimens, including tissues, organs, body parts, and products of conception which are discarded after surgery, obstetrical procedures, autopsy and laboratory procedures; bulk blood, blood products, and body fluids, and any disposable substance that has been exposed thereto as may be determined by rule or regulation of (the appropriate federal agency), (except urine and fecal matter) of at least 20 cubic centimeters in volume; waste generated from rare or unusual cases involving communicable diseases, as determined by (the appropriate federal agency); and carcasses, body parts, and bedding of any research animal that was intentionally exposed to a pathogen.

A non-profit organization of proprietary and non-proprietary long term health care facilities dedicated to improving health care of the convalescent and chronically ill of all ages. An equal opportunity employer.

AHCA believes that this definition includes those items which have washed ashore and which pose the most serious public health threat. It should be easier to regulate and less costly to federal programs, such as Medicaid and Medicare, which would have to increase their subsidies to medical providers in order to cover added disposal costs.

Your full consideration of the foregoing is deeply appreciated. Please do not hesitate to contact me if I can be of any assistance.

Sincerely,

Paul R. Willging, Ph. D.
Executive Vice President

xc: U.S. Representative Jim Saxton
U.S. Representative William J. Hughes